

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Donna Curling, et al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:17-cv-02989-AT

Brad Raffensberger, et
al.,

Defendants.

~~~~~

VIDEO 30(b)(6) DEPOSITION OF  
SECRETARY OF STATE  
THROUGH  
ROBERT GABRIEL STERLING

October 12, 2022  
9:26 a.m.

Suite 3250, One Atlantic Center  
1201 W. Peachtree Street  
Atlanta, Georgia

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20

21

22

23

24

25

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attached to the original transcript.)

1 THE VIDEOGRAPHER: Good morning. We're  
2 going on the record at 9:26 a.m., November the  
3 12th, 2 -- October the 12th, 2022.

4 Please note that the microphones are  
5 sensitive and may pick up whispering and private  
6 conversations. Please mute your phones at this  
7 time.

8 Audio and video recording will continue to  
9 take place unless all parties agree to go off  
10 the record.

11 This is Media Unit 1 of recorded  
12 deposition of the Office of the Secretary of  
13 State, taken by the Plaintiff -- by counsel for  
14 the Plaintiff, In The Matter of Donna Curling,  
15 et al. versus Brad Raffensperger, et al., filed  
16 In United States District Court of the Northern  
17 District of Georgia, Atlanta Division, Case No.  
18 1:17-CV-2989-AT. The location of the deposition  
19 is Krevolin & Horst, LLC.

20 My name is Scott Bridwell, representing  
21 Veritext Legal Solutions. I am your  
22 videographer. The court reporter is Julie  
23 Friedman from the firm Veritext Legal Solutions.

24 I'm not authorized to administer an oath.  
25 I'm not related to any party in this action, nor

1 am I financially interested in the outcome.

2 If there are any objections to this  
3 proceeding, please state them at the time of  
4 your appearance.

5 Counsel, and all present, including  
6 remotely, will now state their appearance and  
7 affiliations for the record, beginning with the  
8 noticing attorney.

9 MR. CROSS: David Cross of Morrison &  
10 Foerster on the behalf of Curling Plaintiffs.

11 MR. BROWN: Bruce Brown on behalf of the  
12 Coalition Plaintiffs.

13 MR. SPARKS: Adam Sparks for the Curling  
14 Plaintiffs.

15 MR. KNAPP: Halsey Knapp on behalf of the  
16 Curling Plaintiffs.

17 MR. TYSON: Brian Tyson on behalf of the  
18 Secretary of State and the State Election Board.

19 MR. CROSS: I don't think we need to go  
20 through everyone on the Zoom.

21 THE VIDEOGRAPHER: We don't?

22 You all agree on that?

23 MR. TAYLOR: I agree. Yeah.

24 THE VIDEOGRAPHER: Okay. There we go. So  
25 we're not going to do the Zoom.

1 Will the court reporter please swear in  
2 the witness.

3 ROBERT GABRIEL STERLING, having been first  
4 duly sworn, was examined and testified as  
5 follows:

6 THE VIDEOGRAPHER: Counsel, you may  
7 proceed.

8 CROSS-EXAMINATION

9 BY MR. CROSS:

10 Q. Good morning, Mr. Sterling.

11 A. Good morning, Mr. Cross.

12 Q. So do you understand your testimony today  
13 as a representative of the Office of the Secretary of  
14 State for Georgia.

15 A. That's my understanding. Yes.

16 Q. And you understand that means that you're  
17 testifying to the knowledge the Secretary's Office  
18 has on a particular topic?

19 A. Yes.

20 Q. Okay. Let me go ahead and hand you the  
21 first exhibit, which is Tab 2, the notice.

22 If you could, share that with everybody  
23 else.

24 A. Is it the same thing here?

25 Q. Yeah.

1 A. Okay.

2 Q. No problem.

3 (Exhibit 1 was marked for identification.)

4 MR. TYSON: Thank you.

5 THE VIDEOGRAPHER: Exhibit 1?

6 MR. CROSS: Exhibit 1.

7 THE COURT REPORTER: Oh, no.

8 MR. CROSS: And --

9 THE COURT REPORTER: Give me a second,  
10 please.

11 MR. CROSS: Sure.

12 THE COURT REPORTER: The late attendees.

13 MR. CROSS: Do we need to go off the  
14 record?

15 THE COURT REPORTER: Yeah. We can for a  
16 second. I'm so sorry.

17 MR. CROSS: That's okay.

18 THE VIDEOGRAPHER: We're going off the  
19 record at 9:30.

20 (Recess from 9:30 to 9:31 a.m.)

21 THE VIDEOGRAPHER: We're on the record at  
22 9:31.

23 Q. (By Mr. Cross) Mr. Sterling, before we  
24 look at Exhibit 1, just you understand you're under  
25 oath?

1 A. Yes. I just took it.

2 Q. Yeah. And is there any reason you cannot  
3 give full and complete testimony today?

4 A. Not that I'm aware of.

5 Q. Okay. And have you ever been convicted of  
6 or charged with any crime?

7 A. No.

8 Q. Okay. All right. Take a look --

9 A. Wait. Do speeding tickets count?

10 Q. No.

11 A. Okay.

12 Q. Those are not crimes.

13 Take a look at Exhibit 1, if you would,  
14 and turn to Page A-4 where it says, "AMENDED TOPICS."

15 A. Yes, sir.

16 Q. And you'll see that there's a topic there,  
17 No. 1; and it continues on to the top of the next  
18 page.

19 And are you prepared to testify to the  
20 knowledge of the Secretary's Office on that topic  
21 today?

22 A. Yes.

23 Q. Okay. Now what did you do to prepare for  
24 your testimony today?

25 A. Interviewed several individuals in the

1 office and -- or -- and people who also left the  
2 office. Pam Jones left the office. Chris Harvey's  
3 left the office. Frances Watson has left the office,  
4 but I did -- I did interview all of them.

5 The current director in this investigation  
6 is our chief investigator, Sara Koth. Josh -- Oh,  
7 what's the last name? Can't think of it. One of our  
8 other investigators who was the main person on the  
9 ground. Blanchard, that's the last name.

10 Let's see. Blake. Talked to Blake Evans.

11 Conferred with counsel.

12 Read over my former -- what do you call  
13 it -- deposition. I read through Chris Harvey's  
14 deposition.

15 I reviewed other documents, including  
16 things from a Channel 11 interview, the video from  
17 The Carter Center.

18 Let's see who else did I interview with.  
19 Ryan Germany in my office. I might have said that  
20 already. I apologize.

21 And generally reviewed my own memory of  
22 some of the stuff since this took place over the last  
23 two years, and I was in a position to really be aware  
24 of or be a part of the decision making process on  
25 most of these -- the situation surrounding Coffee

1 County and any of the other potential items that  
2 might have been -- where access might have been  
3 improperly given to somebody or allegation of -- of  
4 that kind.

5 And I probably spent -- I -- I couldn't  
6 even put a number to how many hours. I think  
7 probably about three weeks' worth of time, depending  
8 on my own time, doing it and doing the interviews and  
9 doing research and re-reviewing the documentation.

10 Q. Did you review any documents beyond your  
11 prior deposition testimony and Mr. Harvey's  
12 deposition testimony?

13 A. Yes.

14 Q. What other docs?

15 A. Should I repeat the ones I already stated  
16 or --

17 Q. No. The only thing I heard from documents  
18 was those two --

19 A. I also --

20 Q. -- last --

21 A. -- looked at the transcript of the Channel  
22 11 interview.

23 Q. Oh, the Channel 11. Okay.

24 A. I looked at the video or part of the video  
25 from my thing at The Carter Center.

1 Q. Okay.

2 A. Let's see. I reviewed e-mails from  
3 different people in and around this. I reviewed  
4 other e-mails from the investigative side; e-mails,  
5 some from discovery from this case and -- and others  
6 as well.

7 I looked over the -- the videos from  
8 Coffee County by Misty Hampton. I looked at her  
9 statement or declaration that she did not commit  
10 voter fraud.

11 I mean, I've -- I'll try to list  
12 everything I can remember right now, but some may be  
13 triggered by some of the questions.

14 Let's see. What else. The adjudication  
15 guide, I reviewed it. I'm not going to say I read  
16 all 80 pages of it, but I reviewed big parts of that,  
17 and that's the Dominion adjudication guide.

18 The adjudication -- I'm sorry. The  
19 Dominion bulletin which everybody telling to keep  
20 your stuff secure and why.

21 The CISA item about different potential  
22 vulnerabilities.

23 Those are the main -- main things come to  
24 mind right now.

25 Q. Okay. The Dominion bulletin about keeping

1 equipment secure, is that the one that went out in  
2 May 2021 regarding Cyber Ninjas?

3 A. I believe it was May 6th, and now that  
4 Cyber Ninjas was part of the impetus behind this.

5 THE COURT REPORTER: I'm sorry. I'm  
6 sorry? I'm sorry.

7 MR. CROSS: You've got to slow down.

8 THE COURT REPORTER: Let's have the  
9 question again.

10 THE WITNESS: Okay.

11 THE COURT REPORTER: And then a pause and  
12 the answer --

13 THE WITNESS: Okay.

14 THE COURT REPORTER: -- please.

15 Q. (By Mr. Cross) The Dominion bulletin  
16 regarding keeping equipment secure, was that the one  
17 that went out on May 6th, 2021 that related, in part,  
18 to Cyber Ninjas?

19 A. Correct.

20 Q. Okay. You said you reviewed a statement  
21 or declaration from Misty Hampton saying she did not  
22 commit voter fraud. Can you describe that for me.

23 A. It was a very short statement, David. I  
24 believe.

25 THE WITNESS: Should I hold up for a

1 second, court reporter, on this?

2 THE COURT REPORTER: Okay.

3 THE WITNESS: Miss Friedman, thank you.

4 THE COURT REPORTER: Yes.

5 THE WITNESS: Now I forgot where I was.

6 If somebody can read back the last section

7 before this.

8 THE COURT REPORTER: No. I can't.

9 THE WITNESS: Okay. Oh.

10 Q. (By Mr. Cross) My question --

11 A. No, no.

12 Q. -- was that -- that you reference a  
13 statement or declaration that Miss Hampton signed  
14 saying she did not commit voter fraud, and my  
15 question was can you tell me what -- about that.

16 A. It was -- I believe it was on her  
17 letterhead. It was dated January 7th, 2021, where  
18 she stated that she would never, have never, and  
19 would not consider committing voter fraud, something  
20 along those -- It was a very declarative statement,  
21 but it was only like two sentences, so that's what  
22 that was.

23 Q. And what was the date of that?

24 A. I believe it was dated January 7th. It  
25 came into the -- the Secretary's Office's possession

1 at the end of January. I want to say January 26th.

2 Q. It was dated January 7, 2021?

3 A. Correct. And it came into the Secretary's  
4 Office possession through Investigator Blanchard on,  
5 I believe, January 26, 2021.

6 MR. TYSON: And, David, now that I  
7 understand what the document is, that is one of  
8 the exhibits to the report of investigation that  
9 would was held based on investigative privilege,  
10 so just to clarify. That's -- That's why you  
11 don't know what that is and haven't seen it  
12 before.

13 MR. CROSS: Okay. I mean, if he reviewed  
14 it for his testimony and relied on it, we'd ask  
15 for production of that.

16 MR. TYSON: Well, let us take a look at  
17 that.

18 MR. CROSS: Okay.

19 MR. TYSON: Maybe we can figure that out.  
20 It's short so --

21 MR. CROSS: Sure. Thanks.

22 Q. (By Mr. Cross) Okay. So that was --  
23 That was a statement that was prepared with respect  
24 to the original SEB 2020-250 investigation in Coffee  
25 County?

1 A. Yes.

2 Q. Okay. Got it. That was not a statement  
3 that concerned the breach allegations that had come  
4 to light later involving January 7th?

5 A. Correct.

6 Q. Okay.

7 A. It was ironically dated that date, but  
8 that was the date she signed it. Now this came  
9 from --

10 Q. Maybe she was busy that day.

11 A. This came from the visit on December 10th,  
12 I believe, of Miss Watson, Pam, and Josh, along with  
13 two Dominion representatives, Scott and Tom Feehan.  
14 Scott's last name escapes me right now.

15 And basically said they would ask her,  
16 well, did you commit any fraud, because this was  
17 related to her videotape where she talked about where  
18 it could it be done; and she -- They requested that  
19 she put that in writing essentially, and that's when  
20 Josh --

21 She had it down there. They were bugging,  
22 pestering her about it; and she finally say I have it  
23 here; and Josh was down there anyway. And we picked  
24 it up on that date.

25 Q. Got it. Okay. I think you said you

1 reviewed a -- the CISA advisory that came out in June  
2 of this year?

3 A. I believe that was the date. Correct.

4 Q. Okay. And have you reviewed Dr.  
5 Halderman's July 2021 report?

6 A. I have.

7 Q. And you --

8 A. That's another document. I apologize.  
9 Yes.

10 Q. When did you first review that?

11 A. I first reviewed it this weekend.

12 Q. Was it the redacted or the unredacted?

13 A. Well, I saw no redactions, so I assume it  
14 was the unredacted.

15 Q. Got it. Okay. And are you familiar  
16 with -- Well, I think you've actually talked about  
17 it publicly. But are you familiar with the report  
18 that MITRE prepared?

19 A. Yes. That's another one that I read as  
20 well. Sorry.

21 Q. And just so we're talking about the same  
22 thing, the MITRE report is one that Dominion  
23 commissioned MITRE to do in relation to Dr.  
24 Halderman's July 2021 report?

25 A. Correct.

1 Q. When did you first read that?

2 A. I would say probably a couple months ago.  
3 I couldn't give you an exact time.

4 Q. Okay. Did you review a draft first or --  
5 or a final form?

6 A. Final form. We weren't part of that  
7 process. That was completely between MITRE and  
8 Dominion.

9 Q. When did the -- and -- and -- Well, I'll  
10 come back to that.

11 When did the Secretary's Office first  
12 learn that Dominion had shared the Halderman report  
13 with MITRE?

14 MR. TYSON: David, I'm -- I'm just going  
15 to pose a scope objection here. I'm not sure.  
16 I guess are we trying to get into how we're  
17 related to topics on the knowledge of the  
18 Secretary's Office between Dominion and MITRE?

19 MR. CROSS: I'm not going to spend much  
20 time on it. He said he reviewed it for this  
21 deposition, so I'm just --

22 MR. TYSON: Yeah.

23 MR. CROSS: -- following up.

24 THE WITNESS: It would have been -- I'm  
25 spit balling here -- probably sometime in the

1           early summer of late spring of 2022.

2           Q.       (By Mr. Cross)   Okay.

3           A.       But I'm -- I would have to -- I'm not  
4       exactly positive on when I first learned about the  
5       final version of that.   Am I --

6                       We learned they were doing it, I think;  
7       and then I saw the final version, like I said,  
8       sometime a couple months ago, so there was a scope of  
9       window there when they were -- I knew they were  
10      working on it, so obviously, they had to have given  
11      the Halderman report over at some point.

12          Q.       Understood.   Okay.   And that timing in  
13      your mind is sometime around early summer?

14          A.       I think.   Yeah.

15          Q.       Okay.   Did you interview or speak with any  
16      SEB members for the deposition today?

17          A.       No.

18          Q.       What about any Coffee County employees?

19          A.       No.

20          Q.       Anyone on the Board of Elections there?

21          A.       No.

22          Q.       Any of their counsel?

23          A.       No.

24                     Ryan Germany generally talks -- Since he  
25      is our attorney, he talks to their attorney on stuff.

1 Q. Okay.

2 A. Bless you.

3 MR. KNAPP: Excuse me. Thank you.

4 Q. (By Mr. Cross) Did you speak with Jim  
5 Persinger, the State's consultant?

6 A. I have spoken with Jim Persinger about  
7 this, but only on one specific topic surrounding the  
8 Poll Pads.

9 Q. Okay. So what steps, if any, did you take  
10 to educate yourself on the Secretary's Office's  
11 knowledge about any analysis done of the voting  
12 equipment and devices that were taken from Coffee  
13 County?

14 A. The Persinger side, also, I was aware of  
15 the steps that we took when we first learned about it  
16 after the information withheld from us for nearly a  
17 year that there was a potential this happened.

18 When it was brought up in our previous  
19 deposition in late February of '22, went and  
20 discussed it with Ryan Germany; and we then said,  
21 okay, we already have the EMS in our possession  
22 because of the issues surrounding the previous  
23 password issue.

24 Now that being said, it goes into a  
25 longer -- This is a long soap opera kind of thing in

1 Coffee County, obviously; and I -- it -- I don't  
2 know how deep you want to go into all these things.

3 But I mean, we started with that. We  
4 called Dominion. Can you get into this particular  
5 service? I said it's already in our possession, and  
6 we don't know the password. It's difficult to do  
7 that in some ways.

8 So they tried it, and then one of their  
9 employees came down, and on April -- I want to say  
10 April 11th, but it was sometime the week of April  
11 11th on another item and came to --

12 And they tried to get into it working  
13 their team remotely from Denver, and then they tried  
14 another round of that. I believe they tried imaging  
15 it in March. This was March into April and into May  
16 trying, but they were trying to get into it, and they  
17 were unsuccessful in doing so.

18 Then we decided this -- this path isn't  
19 working, and the rationale behind that was we  
20 understood already that some of the players involved  
21 in Coffee County were not necessarily the most honest  
22 in terms of telling us the truth about things.

23 Misty Hampton kind of showed already she  
24 had -- She kind of held some disdain for the system.  
25 Was not a fan of the office.

1           And from my interviews with Frances, Josh,  
2           and Pam and Chris Harvey, there had always been  
3           problems around her. She was very dismissive of any  
4           issues around this situation. Said she wasn't  
5           trained on things, when, in fact, we have records  
6           that she likely had been trained. She had options  
7           and abilities to get trained, 'cause we looked up and  
8           found on items on Firefly, which our communications  
9           system we use with our counties.

10           So we knew it would be difficult and -- to  
11           just go interview people, so it was decided  
12           internally, mainly with Ryan Germany saying, look, we  
13           know these people don't necessarily tell the truth.  
14           We know, you know, Scott Hall, who was -- who -- who  
15           was the one Miss Marks made the recording of, you  
16           know, he signed an affidavit and I believe that  
17           Sidney Powell or the Lin Wood's suit, one of the two.  
18           They all kind of run together at the time.

19           THE COURT REPORTER: All right. Who?  
20           Sidney Powell or --

21           THE WITNESS: Lin Wood, L-I-N W-O-O-D,  
22           lawsuit.

23           So we decided we needed to get binary  
24           things we could prove, so when we questioned  
25           them, we could hold them to account and know

1       they weren't just -- have to follow up later on.  
2       That was the intent of trying to get into the  
3       server first.

4               So, finally, we decided that we have  
5       Persinger, who is there as an expert; and he was  
6       able to get into it; and that's when we  
7       discovered --

8               He took possession of it from our Center  
9       for Elections from Michael Barnes.

10              By the way, I did interview Michael Barnes  
11       as well and Chris Bellew, both from our Center  
12       for Elections.

13              That I think it was right before July 4th  
14       we took possession of it; and then not long  
15       after that, we discovered that somebody had  
16       connected the device on that January 7th date, I  
17       believe.

18              And at that point, we knew, yes, there was  
19       some validity to this that we need to very much  
20       track down; and that started the process, too,  
21       of us understanding, okay, this may be a  
22       discussion that needs to be had with the GBI.

23              So there was some beginning discussions  
24       really starting from June when it first looked  
25       like maybe there was something potentially here,

1 but for sure once we knew Persinger said, yes,  
2 somebody plugged something in that wasn't  
3 appropriate.

4 So those -- those are the main -- Those  
5 are some of the things we did to try to discover  
6 what was done on that front.

7 Q. (By Mr. Cross) Is it important for the  
8 Secretary's Office to provide correct information to  
9 voters regarding elections and election security?

10 A. It's important to give them the best  
11 information they have at any given time. Yes.

12 Q. And -- And to make sure that that  
13 information is correct, right?

14 A. There -- You always want to have the  
15 most -- best information you have and have that be  
16 correct, but that sometimes you have limited  
17 information. And you can sometimes make judgments,  
18 and you can be incorrect, or you can be correct and  
19 to correct it later. That's just human nature; and  
20 the way of the world, unfortunately.

21 Q. All right. Let me hand you Exhibit 2, and  
22 this is Tab 1-A.

23 (Exhibit 2 was marked for identification.)

24 THE WITNESS: Can I give -- put one to the  
25 side now? Are we done with this?

1 Q. (By Mr. Cross) Sure.

2 A. Okay.

3 MR. CROSS: I'll give those to Bruce.

4 THE WITNESS: Okay.

5 Q. (By Mr. Cross) And if you look at Exhibit  
6 2, do you recognize this as an investigative --  
7 excuse me -- an investigative report for the SEB Case  
8 2020, dash, 250?

9 A. Yes.

10 Q. And is this a document you've seen before?

11 A. Yes.

12 Q. And the report is dated September 28th,  
13 2021, right?

14 A. Yes.

15 Q. And there are three different complaints  
16 that are identified in here. Do you see that?

17 A. Yes.

18 Q. The first is a complaint from the Coffee  
19 County Board of Elections that they were unable to  
20 repeatedly duplicate credible election results for  
21 the November of 2020 election.

22 Do you see that?

23 A. Yes.

24 Q. And that complaint proved to be  
25 inaccurate, right?

1           A.     Well, they couldn't do it, because they --  
2     Misty had inappropriately batched her ballots, and  
3     our investigators went down and showed that, so they  
4     did a hand count to show that the election night  
5     reporting results that were reported did match the  
6     actual ballots.

7           Q.     Oh.

8           A.     So they couldn't do it, so that's not  
9     incorrect to say that they -- they -- they were  
10    incorrect in saying we can't certify because of this  
11    issue.

12          Q.     Yeah. And then the second complaint  
13    involved a YouTube video that showed the Coffee  
14    County elections supervisor Misty Martin discussing  
15    the ways in which the election software could be  
16    manipulated. Do you see that?

17          A.     Yes.

18          Q.     And one of the things that came to light  
19    was that in that video, there was a password for the  
20    Dominion system that was apparent, right?

21          A.     Yes. In fact, it was our Investigator  
22    Blanchard who noticed in his reviewing the first  
23    time. Zoomed in. Saw that it was the password.

24                 THE COURT REPORTER: And I'm sorry.

25                 THE WITNESS: I'm trying.

1 THE COURT REPORTER: I've got to keep up  
2 with you.

3 THE WITNESS: I am doing my best, but I  
4 will continue to try to slow down.

5 Do you want me to repeat the last one  
6 again?

7 It was our Investigator Josh Blanchard who  
8 discovered when reviewing the video that the  
9 password was the password, in fact. It was on a  
10 small yellow Post-it note at the bottom of her  
11 main EMS screen, and that's Election Management  
12 System.

13 Q. (By Mr. Cross) And what was that password  
14 for, what specific equipment?

15 A. I believe just to sign into that EMS  
16 itself.

17 Q. The EMS server?

18 A. Correct.

19 Q. Okay.

20 A. And further from the investigation itself,  
21 it was discovered they only use one password for  
22 their county, when the rule and operating practice is  
23 each individual should have their own password to log  
24 in.

25 Q. To the EMS server?

1           A.       Correct.

2           Q.       Okay. And then if you look at Complaint 3  
3 in the top the next page, this was a complaint from a  
4 voter concerning an absentee ballot, right?

5           A.       Correct.

6           Q.       So at the time of the investigative report  
7 that was prepared on September 28, 2021, do I  
8 understand correctly that this investigation did not  
9 involve allegations of unauthorized access to the  
10 system?

11          A.       Correct. It was -- It was spurred by two  
12 items, both the video and their claim that they could  
13 not certify.

14          Q.       Got it. So --

15          A.       And then, obviously, this third one, which  
16 was a specific voter's complaint.

17          Q.       So this was a -- a -- a different set of  
18 facts that was being investigated from what came to  
19 light later regarding the unauthorized access on  
20 January 7th; is that fair?

21          A.       Correct. But that there was an issue with  
22 this that comes to light, and that Coffee County  
23 like -- So it's kind of a soap opera.

24                    Because of the password situation, which  
25 when Frances and the other investigators -- Our

1 chief investigator, Frances Watson, and the other  
2 investigators went to Coffee County. She, at that  
3 point, is my understanding, still had not changed the  
4 password; and they basically directed her to do so,  
5 so they did that.

6 I believe, December 14th was when the --  
7 it was changed in the system.

8 Now going further out from there, Misty  
9 resigned in lieu of being fired -- I believe it was  
10 for falsifying hourly pay wage items -- her and her  
11 daughter and one other person, I believe.

12 The new director came in, James Barnes, so  
13 I want to say that was March or April of '21.

14 Now there were no elections going on after  
15 that, so he had no reason to touch the Election  
16 Management System. Come May of -- of 2021, he tries  
17 to get in using the password that he thought he had.  
18 He couldn't do it. This is late May.

19 So he calls up to the Center for  
20 Elections.

21 Q. Can I just ask you one quick question.

22 A. Yes.

23 Q. The password that he was using, that --  
24 was that the password that had been entered on  
25 December 14 at the direction of the Secretary's

1 Office?

2 A. Apparently not --

3 Q. Was that an issue?

4 A. -- because the password he had was  
5 ineffectively.

6 So I'll get -- I'm going to come around  
7 to answer what you probably are trying to ask.

8 So he couldn't get in, and that was late  
9 May. He calls the Center for Elections and talks to,  
10 I believe, either Chris Bellew or Michael Barnes  
11 directly. I think Michael Barnes on this phone call.  
12 He gives them the password we have on file in our  
13 little system there. It's the same one.

14 He tries it. It doesn't work.

15 So they said okay. We cannot get into the  
16 system right now. So our standard operating  
17 procedure would be if you're going to work on a  
18 system, an EMS, you would take an EMS with you there  
19 in case you can't get in to switch it out.

20 So Chris Bellew drove down there on  
21 June -- I want to say it was 8th. And went in.  
22 Attempted to get in with the password they had and  
23 the password that James Barnes had, and they couldn't  
24 get in, so it was not the password that had been  
25 changed on December 14th.

1           Now we know that password was used,  
2       because they ran the January 5th runoff, and it ran  
3       properly. They reported. Everything went as was  
4       expected.

5           So Misty and the collections of election  
6       workers there had that password and ran the election.  
7       She claimed after the fact that she didn't have the  
8       password, and it hadn't been changed, and she  
9       couldn't even do that. I think at one point she  
10      might have made a claim the State can do it; but, of  
11      course, since the EMS is not connected to the  
12      Internet, we wouldn't have the ability to do that  
13      anyway.

14           So that's where this -- this came in. The  
15      password was changed. It wasn't passed on to the new  
16      employees. It was a claim that there was no change,  
17      which, obviously, through investigation, we  
18      discovered there was and that they'd used the system  
19      properly in the January 5th runoff election. So it  
20      was changed out on that January 8th date, and I  
21      believe even the report --

22           Q.     June.

23           A.     Sorry. June. Pardon me. Thank you.  
24      June 8th. Thanks for correcting me.

25           It was sometime on -- I believe it was

1 like 4:00 o'clock in the afternoon, 'cause we can  
2 see. They can -- They have a -- a record when they  
3 first set it up, and there's paperwork showing that.

4 I didn't -- I didn't review it, but Chris  
5 Bellew walked me through it in my interview with him,  
6 and Chris Bellew is like the number two person  
7 essentially at the Center for Elections. And he  
8 physically was the one who went to Coffee County for  
9 that purpose.

10 Q. Okay. I don't think we've received any  
11 records or paperwork regarding swapping out the EMS  
12 server other than the logic and accuracy report.

13 A. I think that's -- Well, I believe that's  
14 what it is.

15 Q. Oh, that's what it is. Okay.

16 A. Yes.

17 MR. TYSON: Yeah.

18 THE WITNESS: And it shows the time and  
19 date when they did that.

20 Q. (By Mr. Cross) Got it. Okay. Okay. So  
21 just so I understand, are you saying that Miss  
22 Hampton changed the password on the EMS server on  
23 December 14, which the Secretary's Office had  
24 directed her to do, because it was -- The original  
25 password was -- was publicly released in the video,

1 but then that password was not shared with the  
2 incoming Elections Director James Barnes?

3 A. Yes.

4 It's my understanding, too, that Chris  
5 Harvey had told Miss Hampton to change the password  
6 by phone call after the video was released; and,  
7 apparently, she had not done that, so that is the  
8 reason that the -- that EMS was taken back.

9 There was no indication that there was any  
10 authorized access. This was completely around  
11 something we were aware of already, which was the  
12 video, which, you know, showed the password.

13 Her reticence to do so. She finally did  
14 so, and then did not pass it on to -- to the new  
15 incoming employees.

16 And I could not tell you why she said  
17 that, and I could not tell you why she chose to say  
18 she never changed the password.

19 Now there's one thing we can't show. We  
20 don't know if it was her herself who changed the  
21 password, her -- another employee in the office,  
22 because they didn't follow the rules of having  
23 individualized passwords to do -- to do items for the  
24 log files.

25 Q. When did Miss Hampton say she did change

1 the password in December of 2020?

2 A. I don't believe she ever did say she did  
3 it.

4 Q. No. When did she say she did not?

5 A. She said I never changed the password.  
6 The password wasn't changed after she was let go when  
7 we tried to call her. Or not we.

8 Coffee County is my understanding tried to  
9 call her. Say what's the password?

10 Well, I never changed the password. It  
11 didn't happen.

12 So that would have been probably around  
13 the time Mr. Barnes attempted to get into it. That's  
14 James Barnes, who was the new elections director for  
15 Coffee County.

16 Q. So someone from Coffee County contacted  
17 Miss Hampton in the spring of 2021 and asked her for  
18 the password, and she said she never changed it?

19 A. Something along those lines, or it was  
20 never changed, or I'm not aware of it.

21 I don't know her exact verbiage; but  
22 basically, I don't have it is what she actually said.

23 Q. Okay.

24 A. But we know somebody in the office had to  
25 have had it, because they ran the January 5th runoff.

1           Q.     Right. But how do you know what Miss  
2 Hampton meant was that she didn't change it after the  
3 January election as opposed to before?

4           A.     Well, no. We were asking her we need the  
5 password to get in.

6                     I don't have a password to get in  
7 essentially is what she was saying.

8                     I -- I couldn't speak to dates or times  
9 or anything else on those -- on those fronts, and I  
10 think we only saw one change of password in the log  
11 file, and that was at -- on December 14th.

12          Q.     Okay. Let me hand you Exhibit 3.

13          A.     Are we done with this one? Can I put it  
14 away?

15          Q.     No. Hang on to that. We're going to come  
16 back to it.

17                     (Exhibit 3 was marked for identification.)

18          Q.     (By Mr. Cross) So Exhibit 3 is Tab 5.

19          A.     Uh-huh.

20          Q.     Do you recognize Exhibit 3 as the password  
21 on the Post-it note on the YouTube video we've been  
22 talking about?

23          A.     Yes, sir.

24          Q.     Okay. And so that -- The concern the  
25 Secretary's Office had in December of 2020 was that

1 this was the password to the EMS server and that that  
2 was released publicly, and so it needed to be  
3 changed; is that right?

4 A. Correct.

5 Q. Okay. Would it surprise you to learn that  
6 that actually is not and has never been the password  
7 to the EMS server in Coffee County?

8 A. Yes.

9 Q. Would it surprise you to learn that the  
10 EMS server password isn't even that style of  
11 password, the 16-digit alphanumeric?

12 A. I don't know if it would surprise me or  
13 not, but I'm curious as to what that would be a  
14 password for then since it was on the EMS, but --

15 Q. Are you --

16 A. -- I see.

17 Q. -- familiar with the election project  
18 files that go out to the counties --

19 A. Yes.

20 Q. -- when there are elections?

21 THE COURT REPORTER: And --

22 MR. CROSS: Sorry.

23 THE WITNESS: Sorry.

24 Q. (By Mr. Cross) Yeah. Just get that  
25 again. Are you familiar with the election project

1 files that go out to the counties before elections?

2 A. Yes.

3 Q. And are you aware that those election  
4 project files use 16 digit alphanumerics just like  
5 the one in Exhibit 3?

6 A. Yes.

7 Q. Do you know what the basis was that the  
8 Secretary's Office concluded that the password in  
9 Exhibit 3 was for the EMS server as opposed to an  
10 election -- election project file?

11 A. The investigator looked at it. Chris  
12 called her about it. She didn't deny it, so I assume  
13 they thought it was correct.

14 Q. But no one from the Secretary's Office  
15 ever tried to enter that or have anyone in Coffee  
16 County enter that password in the EMS server at the  
17 time to see if it actually accessed the server?

18 A. Not that I'm aware of. Again, this goes  
19 back to in real life Misty Hampton was a difficult  
20 person to deal with. She could have easily said,  
21 guys, this is just this other thing.

22 But, also, she shouldn't have it out  
23 there. Let's be fair.

24 But, secondarily, she never said that.  
25 When she was confronted with it by them, she never

1 said that's what this is so --

2 Q. And for that testimony, you're relying on  
3 interviews with the investigators and Mr. Blanchard?

4 A. Mr. Blanchard is an investigator. Pam  
5 Jones, an investigator; and then Frances Watson was  
6 our chief investigator who went down there, because  
7 we were taking this seriously to say you can't do  
8 these things.

9 And instead of saying this wasn't the  
10 password for that, she just said, well, we didn't --  
11 There's nothing wrong here. I don't understand why  
12 you're here. She was very combative.

13 The county attorney was also in there, and  
14 I talked to him.

15 But from talking to the investigator that  
16 said he was much more interested to hear, well, how  
17 do we move forward --

18 Q. That's right.

19 A. -- how do we move forward in -- in a way  
20 just to get us straight basically.

21 And Miss Hampton was not cooperative. She  
22 was combative. Again, every investigator kind of  
23 agreed on her demeanor and approach to the situation.

24 So, again, if we have a person who was  
25 acting in good faith on this front, they would have

1 said, no, guys. This is something else. Also,  
2 something I shouldn't have publicly available,  
3 because it does provide something you shouldn't have  
4 out in the public, and so that's -- That's where we  
5 stood at that point.

6 Q. All right. Take a look back at Exhibit 2,  
7 if you would, please, the investigative report from  
8 2021.

9 A. What page?

10 Q. Flip to Page 4, please. And here, do you  
11 see the heading in Complaint 2 --

12 A. Yes.

13 Q. -- which involves the YouTube video?

14 A. Yes, sir.

15 Q. Up at top of Page 5, if you look at the  
16 end of the first paragraph, there's a reference to  
17 Supervisor Jones said.

18 Do you see that?

19 A. Yes.

20 Q. That's Pam Jones?

21 A. Yes. Well, yes. 'Cause that was her  
22 position. Yes.

23 Q. All right. And so here it indicates that  
24 Pam Jones said to Miss Hampton and whoever's in this  
25 meeting that the video was misleading, referring to

1 the YouTube video, and asked why she failed to  
2 provide instruction about the intended use of the  
3 adjudication process. Miss Martin did not have a  
4 response.

5 Do you see that?

6 A. Yes. Uh-huh.

7 Q. And then if you come into the middle of  
8 the next paragraph, four lines down, do you see where  
9 it says, "Supervisor Jones said..."?

10 You see that?

11 A. Oh, yes.

12 I'm sorry. I thought you were going to  
13 read the rest of that. I apologize.

14 Q. Yeah. I just want to make sure you're  
15 with me.

16 A. Yes.

17 Q. It states, "Supervisor Jones said with  
18 everything that is happening in our state and  
19 country, she," meaning Miss Hampton, "should be  
20 providing the citizens of the county with information  
21 to instill confidence, not misleading information."

22 Do you see that?

23 A. Yes.

24 Q. Do you agree with that?

25 A. Yes.

1           Q.     The Secretary's Office is not always  
2     provided correct information about the voting system  
3     breach in Coffee County; is that fair?

4           A.     It depends on the time, but at the initial  
5     phases of this, obviously. I mean, even if you put  
6     this in more context, Mr. Blanchard was down there in  
7     January, our investigator; and Misty Hampton did not  
8     say anything untoward or weird or odd or anything had  
9     happened.

10                  So yeah. I -- I would say that's a  
11     correct statement. Now we obviously have more  
12     information now.

13           Q.     Right. But even just recently, the  
14     Secretary's Office has disseminated information that  
15     did not accurately characterize what happened in  
16     Coffee County, right?

17           A.     To what are you referring?

18           Q.     Well, you personally did.

19           A.     I wouldn't call that recently.

20                  The Carter Center, is that what you're  
21     referring to?

22           Q.     No.

23           A.     Okay.

24           Q.     Let me hand you Exhibit 4.

25     ///

1 (Exhibit 4 was marked for identification.)

2 THE WITNESS: Okay.

3 Oh, I'm sorry. Give him. Pass them down.

4 Q. (By Mr. Cross) This is Tab 1-B.

5 So this is -- Exhibit 4 is a Tweet that  
6 you sent on October 1st of this year.

7 Do you see that?

8 A. Yes.

9 Q. And in here you write thank you Ben Adida  
10 for being a rational expert in elections. And he's  
11 right. The fear mongers need to stop. The  
12 statements undermine Americans' faith in elections,  
13 the same outcome as Trump's stolen election claims.  
14 Often they say the same thing and reinforce each  
15 other.

16 Do you see that?

17 A. Yes, sir.

18 Q. So you tweeted out the thread that Mr.  
19 Adida had posted, right?

20 A. Yes, sir.

21 Q. Did you actually read that before you put  
22 it out before you re-tweeted it?

23 A. I read his -- most of them. I -- back and  
24 forth for what while, but I didn't -- I don't know  
25 the timing of when I tweeted versus when the replies

1 might have been put on there, so I couldn't say.

2 Q. Well, did you see that in his statement in  
3 the -- the tweet that you re-tweeted, he stated that  
4 the breach, the unauthorized access in Coffee County  
5 lasted only a few hours; and that's why there's not  
6 cause for concern?

7 A. No. I didn't see that part.

8 Q. But that's not an accurate statement.  
9 Right, sir?

10 A. That is correct.

11 Q. In fact, we know from the surveillance  
12 video is that the unauthorized access lasted over a  
13 period of -- of many days and many hours throughout  
14 the month involving a variety of different people?

15 A. Yes. He also said on that particular item  
16 that we have to operate as if they already have all  
17 the source code already. I believe it's the same  
18 thread, but could have been a different thread, so  
19 the length of it has less to do with, I think, from  
20 my point of view and from -- I'm not going to speak  
21 for Mr. Adida here.

22 But I don't believe that's misleading.  
23 No.

24 Q. To -- To tell the voters publicly that --  
25 that the unauthorized access in Coffee County lasted

1     only a few hours as opposed to -- five, six -- eight  
2     days?

3           A.     Again, I don't find it to be -- That's  
4     when Mr. Adida did, and I didn't necessarily see that  
5     particular thing so --

6                     But my point is the underlying part of  
7     that is that he also said we have to act as if they  
8     already have all this information already, so it  
9     doesn't matter if it's eight hours or eight days in  
10    terms of that situation.

11           Q.     But -- But even that is directly at odds  
12    with the position that the Secretary's Office has  
13    taken before this breach came to light, right?

14           A.     I'm not sure what you mean.

15           Q.     Do you recall -- if I can -- I can pull  
16    it up if we need to.

17                     Do you recall that Secretary Raffensperger  
18    did an interview where he said that Dr. Halderman's  
19    findings had no value in the real world, because he  
20    got access to the equipment and the software in a way  
21    that would never happen.

22                     But now you're saying Mr. Adida says we  
23    should just assume that.

24           A.     No. Two different things about this, Mr.  
25    Cross; and I don't want to verbally spar with you.

1           What he's talking about is in a real  
2       election environment, which is the main way people  
3       have access, the issue we have in all these  
4       situations is if you have a bad actor, as is the case  
5       of Coffee County, regardless of the system you use,  
6       you can have negative outcomes and --

7           And all these breaches have to be taken  
8       into account for the possibility of them, and we all  
9       have been the lookout for bad actors who are not --  
10      who are breaking the law essentially. I mean, this  
11      is not my decision to make; but from all appearances,  
12      it seems like Miss Hampton, the people who went to  
13      Coffee County violated Georgia law.

14           Now if they violated Georgia law, if there  
15      was a hand-marked system, they could have done an --  
16      an EMS on that. If they violated Georgia law and had  
17      access to punch cards, same kind of thing.  
18      Regardless of the system, this particular attack  
19      variable is negative for -- in any of them.

20           So, again, how I point out that this is  
21      not misleading; and in the real world, it would be  
22      difficult to do things that would be  
23      self-replicating, pushing things out.

24           And the MITRE report, which you referenced  
25      earlier, points out that most of these things would

1 be hard to be do at scale, most of the potential  
2 vulnerabilities; and every system has  
3 vulnerabilities.

4 When we are evaluating systems, we have a  
5 few things we have to start out of the gate with.  
6 The law in Georgia, HB 316, passed in 2019, stated  
7 you must use a valid marking device as your universal  
8 system in Georgia. That is a state law.  
9 Policymakers passed that. The governor signed it.  
10 There is no leeway on the execution of that law for  
11 the Secretary of State's Office. That is the law  
12 so --

13 Q. Mr. --

14 A. -- we --

15 Q. -- Sterling, I apologize. We are -- We  
16 are far afield from the question that I asked you.

17 A. I --

18 Q. I --

19 A. -- don't --

20 Q. I need you to answer the questions that  
21 I'm asking.

22 A. I believe I am answering the questions  
23 you're asking, but you're asking me to basically say  
24 in this one specific instance. I'm saying you have  
25 to look broader than this one specific instance, but

1 I'll leave it at that for now.

2 Q. Okay. Let me hand you --

3 MR. CROSS: I think this is Exhibit 6?

4 THE VIDEOGRAPHER: Five.

5 MR. CROSS: Five.

6 THE VIDEOGRAPHER: Five.

7 (Exhibit 5 was marked for identification.)

8 Q. (By Mr. Cross) And this is an interview  
9 that I referenced a moment ago that Secretary  
10 Raffensperger gave, I think, in February of this  
11 year, if I remember the -- have the date right, if  
12 you look at --

13 A. Was it --

14 Q. -- the top.

15 A. -- this year, or was it -- It says,  
16 "2/10." But it doesn't have a year on it.

17 Q. Right. It could not have been 2/10 of the  
18 prior year, because it talks about Dr. Halderman and  
19 his report --

20 A. Okay.

21 Q. -- which came out in July of 2021.

22 A. Thank you.

23 Q. So turn to Page 13, if you would.

24 A. (Witness complies with request of  
25 counsel.)

1           Q.     If you look down towards the bottom, do  
2 you see Mark Niesse with the AJC asked a question 39  
3 minutes into the interview?

4           A.     39 minutes, 43 seconds --

5           Q.     Right.

6           A.     -- yes.

7           Q.     And then Secretary Raffensperger responds  
8 by saying you're talking about the Halderman report.  
9 And Halderman was given actually the security code,  
10 so he had total access to the equipment; and he had  
11 it for 12 weeks. And he comes back with his points.  
12 He said, well, if you have that kind of access, that  
13 you can change things.

14                   And Secretary says, well, Doug, yeah.  
15 Just like the guy that's got to come in and work on  
16 your server, your security system for your house, he  
17 can have all the access codes. Yeah. I guess he can  
18 come back maybe at 2:00 a.m.

19                   The question I was asking you was --

20                   Well, let me ask you one more foundational  
21 question. Are you aware that the Secretary of  
22 State's Chief Information Officer, Merritt Beaver,  
23 testified in his deposition as a 30(b)(6) witness, as  
24 a corporate rep, that it's critically important to  
25 protect the Dominion software because releasing it

1 provides a roadmap -- that was his word --

2 A. Yeah.

3 Q. -- a roadmap for hacking the system?

4 A. Yes.

5 Q. Do you disagree with that?

6 A. No.

7 Q. Okay. So my question to you is:

8 You're -- You're citing that Adida is saying, well,  
9 we should just assume that bad actors have not just  
10 the software, but the source code, whereas Secretary  
11 Raffensperger is saying no, no. We don't even have  
12 to worry about Dr. Halderman's findings because he  
13 had access to the software. How do you reconcile  
14 those positions?

15 MR. TYSON: I'll object to form.

16 THE WITNESS: Two different ways. Our  
17 office has to run an entire election system, and  
18 that's what Secretary Raffensperger is referring  
19 to in terms of the overall system would still be  
20 safe given these -- this level of access he had.

21 Q. (By Mr. Cross) Uh-huh.

22 A. Coffee County itself had a breach. Part  
23 of the security of our system overall is there's 159  
24 different jurisdictions.

25 And, again, I'm not a technical expert;

1 but I can give the basics of how -- of my  
2 understanding of it and -- and the scheme of all the  
3 things we have to look at while we feel like this  
4 system is still in the position to accurately take  
5 people's votes and count them and accurately give the  
6 results of the voters of Georgia.

7           Knowing that there's 159 different  
8 counties, thousands of different ballot styles,  
9 different passwords and codes for each county, giving  
10 a roadmap makes it a -- there's a -- you have to take  
11 into account, yes, all the time; which is why in our  
12 contract, we were in a position to always be looking  
13 to improve on our software and security around that  
14 software.

15           We even had discussions with Dominion this  
16 year to upgrade to 513. We looked at doing a pilot.  
17 We ran out of time to do that.

18           So we're investigating putting 517 on,  
19 because this is going to be always an evolving  
20 system. We will learn every time we have an  
21 election. We will learn every time we do those  
22 things.

23           Mr. Halderman's findings can be helpful  
24 directions on some of these things in terms of things  
25 that could be exploited, but nearly every system has

1 things that can be exploited obviously, and that's  
2 true of every system, be it hand-marked, be it punch  
3 card, be it -- be it a BMD.

4 We're following the law and following the  
5 rules in that state, everything into account. We've  
6 got to take into account can this function in a  
7 county. Can a highly resourced county do this well.  
8 Can a low-resource, low-education county do this well  
9 with the volunteers and people that they have. Can  
10 we do training on all this. And like I said,  
11 security or processes and policies in place; and they  
12 have to be followed.

13 And the issue in Coffee County  
14 specifically is that they -- from --

15 The GBI's investigating, obviously, 'cause  
16 it's now a criminal matter; and this will be left to  
17 the judicial system and the criminal justice system  
18 to decide what violations there were and why. They  
19 violated those procedures and policies, and that  
20 could happen under any system.

21 Now it does provide some level; but, also,  
22 I believe there's a version of it, of a system that  
23 was released out of Michigan, potentially in Arizona  
24 after Cyber Ninjas; and, again, all these things can  
25 evolve; and I believe 517 will address many of the

1 items that were pointed out in Mr. Halderman's  
2 report.

3 I guess part of the issue that I have and  
4 part of the issue that the Secretary has is the  
5 combative nature of the way these things are released  
6 even; and instead of, yes, we went through the system  
7 process. Not arguing that point. But there's ways  
8 to do it that are constructive versus destructive,  
9 and I think the way through parts of the way this  
10 lawsuit have gone, it became underpinnings for  
11 President Trump's own memos to seize machines.  
12 It's -- All people involved have to act as  
13 responsibly as they can, given their roles and the  
14 information that they have.

15 Secretary Raffensperger's main point is to  
16 do many of the things that Mr. Halderman points out,  
17 you have to have physical access to the machines  
18 themselves, not just machines for a period of time.  
19 Those machines have been removed from Coffee County.

20 Now I think from the Secretary's point of  
21 view and the Secretary's Office point of view is they  
22 were not removed because we actually believe that  
23 anybody put malware on there or that they did  
24 anything like that. It was to take the discussion  
25 point off the table where people were undermining

1 these people's confidence in the overall security,  
2 the safety of the system. Now that is why that  
3 stuff, those items were removed.

4 We had had a plan, and I was obviously the  
5 last one who wanted to do it. Because I said if we  
6 give into the argument, then you're basically  
7 undermining every system in America that has a  
8 computer attached to it somewhere, which is the wrong  
9 thing to do in -- in our -- in our environment.

10 The EAC has certified this system just  
11 like every other system that's used just about except  
12 for I know there's -- there's some counties and  
13 jurisdictions across America that don't use certified  
14 systems, and that's okay. That's their choice.

15 Policymakers make decisions. We execute  
16 those policies to the best of our abilities with the  
17 resources that we have and the information we have.

18 What he's saying is the overall system in  
19 Georgia is not -- it's --

20 Is it slightly more risk? Yes. I believe  
21 it probably is. But in the scheme of everything else  
22 we have, it would be a bigger risk to try to change  
23 to something else at this point. I mean, I'm not --  
24 We are not putting our head in the sand saying, oh,  
25 gosh. Nothing to see here.

1 But we've had so many claims, so many  
2 things that ended up not being real, I mean.

3 And having seen Halderman's reports, yes.  
4 If you going to have that kind of access, many of the  
5 things he had in there like -- again, I don't want to  
6 get into the details of it like I saw. I was looking  
7 through it, and he --

8 THE COURT REPORTER: I'm sorry. But  
9 you're doing it again.

10 THE WITNESS: I don't want to get into the  
11 details of it; but like you saw a printer with  
12 the back off the printer. In most election  
13 environments, that's going to get noticed; and  
14 that's really what the Secretary is talking  
15 about is examples like that.

16 And if you have an insider, yes. Guess  
17 what, you're going to have those things.

18 There's certain things now that we've  
19 gotten past in Halderman's report. Dominion is  
20 not the sole creator of ballots now. They  
21 haven't been since the 2021 runoff in January of  
22 2021. It's been the Center for Elections with a  
23 director and, number two, two ballot builders  
24 and two contract ballot builders. I mean,  
25 they're the ones who do this now, so it's

1       separate system to a degree than what was even  
2       there that Mr. Halderman was looking at.

3               We are always going to take steps to  
4       increase training, do different things. Like I  
5       said, we're moving to 517. We have an intention  
6       to probably attempt to start doing that in  
7       January, if possible.

8               So we're not saying nothing happened here,  
9       obviously, because something did; and it was  
10      terrible; and I -- I'm not going to say it  
11      should put people under the jail, but that's my  
12      personal belief, but we will let the criminal  
13      justice system decide the outcome for that.

14              And one of the good outcomes from this is  
15      now Misty Hampton has become a cautionary tale  
16      to other elections directors to say you should  
17      always be sacrosanct in how you deal with this  
18      equipment, 'cause your life can be a living hell  
19      afterwards if you are not or if you are being a  
20      bad actor.

21      Q.       (By Mr. Cross) All right. Mr. Sterling,  
22      we have a lot to cover; and if we have to continue  
23      tomorrow, we will. I -- I need you to be responsive  
24      to the question. Okay?

25              You keep -- There's a lot in there, and

1 we're going to go through a lot of that.

2 A. Let me ask a favor real quick. Can we  
3 take a quick break so I can use the restroom, get  
4 some more water before you get into your next  
5 section.

6 Q. Do you mind if I ask one question --

7 A. If you're going to expect me to answer  
8 it --

9 Go ahead. Go ahead. That's fine.

10 Q. Well, if you need to take a break right  
11 now, I just have one --

12 A. No. It's -- It's --

13 Q. -- quick question.

14 A. -- one question. That's fine.

15 Q. Okay.

16 A. Yeah.

17 Q. You -- You mentioned that MITRE report.

18 A. Uh-huh.

19 Q. I believe you said you read it, right?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes.

23 Q. And are you aware that MITRE makes clear  
24 that all of its findings, every single finding it  
25 reached is premised on a very specific assumption.

1 MITRE's assessment of the researcher's proposed  
2 attacks, referring by Dr. Halderman --

3 A. Uh-huh.

4 Q. -- assumes strict and effective controlled  
5 access to the many election hardware and software.  
6 Were you aware of that?

7 A. Yes.

8 Q. Okay. Let's take a break.

9 A. And -- and I'm going to follow -- expound  
10 on that. The attacks -- To get to a machine, you  
11 have to access to that specific machine in most of --  
12 of the things that are outlined in Mr. Halderman, and  
13 just because you get to one machine does not mean  
14 that you suddenly have the ability to affect other  
15 machines in other jurisdictions with different pass  
16 codes, different ballot styles, and so forth.

17 So it is specific to that. Yes. But that  
18 does not apply to the entire statewide system.

19 MR. CROSS: We'll follow up on that.  
20 Let's take a break.

21 THE VIDEOGRAPHER: We're going off the  
22 record at 10:19.

23 (Recess from 10:19 a.m. to 10:31 a.m.)

24 THE VIDEOGRAPHER: We are on the record at  
25 10:31.

1           Q.       (By Mr. Cross) All right. Let me hand  
2 you --

3                   What are we, Exhibit 7?

4                   THE VIDEOGRAPHER: Six.

5                   MR. CROSS: Six.

6                   (Exhibit 6 was marked for identification.)

7           Q.       (By Mr. Cross) All right. I'll hand you  
8 Exhibit 6, and this is Tab 1-C.

9                   Do you recognize Exhibit 6 as a screen  
10 shot from a -- the -- I don't know if it's a panel or  
11 speech that you did for The Carter Center in April of  
12 this year?

13           A.       It was a panel at The Carter Center. Yes.

14           Q.       Okay. And we can -- I think we have the  
15 video if you need it, but we just thought it would be  
16 easier and faster. We -- we --

17                   Below is an excerpt of what you said. In  
18 this particular point about 36 minutes in, you said  
19 so we're still dealing with that here, and we still  
20 have to prove negatives in all these cases.

21                   MR. SPARKS: They cannot hear us.

22           Q.       (By Mr. Cross) It's similar  
23 across-the-board.

24                   THE VIDEOGRAPHER: Well, did you mute the  
25 sound?

1 THE WITNESS: No.

2 THE COURT REPORTER: Oh, geez. I did.

3 I'm so sorry. Okay.

4 THE WITNESS: Wasn't me.

5 Q. (By Mr. Cross) Okay.

6 MR. KNAPP: That's a familiar tune.

7 MR. BROWN: You want to start over?

8 MR. CROSS: Sure.

9 THE VIDEOGRAPHER: Can you repeat that  
10 whole deal.

11 MR. CROSS: I think so.

12 Q. (By Mr. Cross) So in this -- on -- On  
13 this panel that you served on, on April 29th of 2022,  
14 you said, "So we're still dealing with that here, and  
15 we still have to prove negatives in all these cases.  
16 It's similar across the board. But like we had  
17 claims... even recently there was people saying: 'We  
18 went to Coffee County. We imaged everything.'  
19 There's no evidence of any of that. It didn't  
20 happen."

21 Do you see that?

22 A. Yes.

23 Q. How did the Secretary's Office reach the  
24 conclusion as of April of this year that the breach  
25 of the voting system in Coffee County did not happen?

1 MR. TYSON: And I'll object to form. It  
2 was --

3 THE WITNESS: At that point, everything we  
4 saw pointed to the normal misinformation,  
5 disinformation. I mean, having Scott Hall  
6 involved, having Miss Marks be involved, since  
7 we didn't find either of them to be honest,  
8 appropriate, trustworthy on this particular  
9 front, because they both attack our office all  
10 the time. It was --

11 Then if you continue after this, it goes  
12 we had the same kind in Ware County, which  
13 turned out to be nothing.

14 So it was very similar kind of claims  
15 especially around this going back to that same  
16 timeline, and our office also was under the  
17 impression in a general way that if somebody had  
18 done that, if you'd seen the behaviors of the  
19 people involved like the Cyber Ninjas and the  
20 Trump team and Sidney Powells and the Lin Woods,  
21 if they had gotten access, normally that the  
22 modus operandi had been to wave a big red flag.  
23 We got this. We're in here. We're doing those  
24 things.

25 If you go back to the real time, the

1       former chairman of overstock.com is essentially  
2       doing a running blog on all their attempts to  
3       get into things; and they said we attempted to  
4       get into Georgia; and we failed.

5               So this seemed like something that could  
6       be related to the Ware County or the Coffee  
7       County thing; and at this point, we had not been  
8       able to get into that server, so we didn't have  
9       any real evidence other than a claim from Scott  
10      Hall that was withheld from us for nearly a year  
11      by Miss Marks. For whatever purpose, I'm not --  
12      I won't speak to that.

13             And if we had had it in real time,  
14      relative real time with people who care about  
15      election security would normally have given it  
16      to authorities, but I think even -- I'm sure --

17             It's my understanding from the attorneys  
18      that even Miss Marks didn't believe this claim  
19      originally, and I know that she had been going  
20      back and forth on e-mails with people in Coffee  
21      County. We discovered this after the fact,  
22      obviously.

23      Q.       (By Mr. Cross) Mr. Sterling, again --

24      A.       Yes.

25      Q.       -- we're way far afield of the question.

1           Let me -- Let me just bring you back to  
2 my question.

3           A.     I -- I'm telling you the answer to the  
4 question, which is we had all the indications that it  
5 looked like every other false claim; and this was  
6 March.

7           Now we were still investigating, and I  
8 should have put that caveat there, but I felt firm  
9 enough to go like this probably didn't happen.  
10 And -- and nearly every person --

11          Q.     Well, you didn't say probably.

12          A.     Okay. You're right. I just -- I  
13 literally just said I shouldn't have been certain  
14 when I said that. I was wrong; and I've said this  
15 publicly already, that I was wrong on this.

16          Q.     Okay. So my question to you is what  
17 investigation, if any, had been done by the  
18 Secretary's Office or at its direction that -- that  
19 led you to the point where you felt comfortable  
20 saying the breach did not happen?

21          A.     Again, I'm going to repeat myself and what  
22 I just --

23          Q.     I know.

24          A.     -- said, and --

25          Q.     And is it --

1 A. -- what I said was --

2 Q. Is it what you just said?

3 A. It's not just what I just said, but I'm  
4 going to add to. I'm going to try to expound on it,  
5 'cause you cut me off.

6 Q. 'Cause you're going way beyond the  
7 questions, Mr. Sterling.

8 A. I don't believe I am.

9 MR. TYSON: David, you're asking very  
10 broad questions. I think you're getting broad  
11 answers. If you want to ask a more tailored  
12 question, I think --

13 MR. BROWN: That's not --

14 MR. TYSON: -- that can probably help with  
15 this so --

16 MR. BROWN: I object. That's not fair.  
17 In his response to a question about what he knew  
18 in April --

19 MR. TYSON: Uh-huh.

20 MR. BROWN: -- he started talking about  
21 Miss Marks' e-mails, which he discovered last  
22 week.

23 THE WITNESS: Which I just said that, too.

24 MR. BROWN: But that has nothing to do  
25 with your -- with the question, and we're going

1 to -- I know where you're mind going on this.

2 THE WITNESS: Uh-huh.

3 MR. BROWN: But it's not going to answer  
4 the question asked.

5 THE WITNESS: Okay.

6 MR. BROWN: And we're going to be here for  
7 days if this continues, and you're not going to  
8 get your story out.

9 THE WITNESS: Okay. Well, here's the  
10 thing --

11 MR. BROWN: So -- So you did not know  
12 anything about Miss Marks's e-mails when you  
13 said this at The Carter Center.

14 THE WITNESS: No.

15 MR. BROWN: And so talking about it in  
16 response to a question --

17 MR. TYSON: Bruce --

18 MR. BROWN: -- of why you said this --

19 MR. TYSON: Bruce --

20 MR. BROWN: -- is not appropriate.

21 I'm objecting.

22 MR. TYSON: I think you made --

23 MR. BROWN: Okay.

24 MR. TYSON: -- your point.

25 MR. BROWN: All right.

1                   MR. TYSON: I think you made your point,  
2                   and we should start back at the question and  
3                   get --

4                   MR. BROWN: Yes.

5                   MR. TYSON: -- the answer.

6                   MR. BROWN: Sorry.

7                   Q.        (By Mr. Cross) Let's just be clear. The  
8                   question is: What investigation, if any, had been  
9                   done by the Secretary's Office or at its direction as  
10                  of the time that you said publicly in April of 2022  
11                  that the breach we now know happened of the voting  
12                  system in Coffee County, that it did not happen?

13                  A.        At that point, we had attempted to get  
14                  into the server. We had only a statement from --  
15                  what do you call it -- a statement from Scott Hall  
16                  and a snippet of a phone call that we'd eventually  
17                  gotten ahold of the entire thing by then, and this  
18                  was 90 seconds of an overall phone call.

19                             We also had the previous investigation,  
20                  where none of this had come up.

21                             At this point our office was also aware --  
22                  or had asked. The question had been asked. Did  
23                  anybody -- and this goes back to --

24                             You go back to the e-mails from May of  
25                  '21.

1 Q. That's after what we're talking about  
2 here, sir.

3 A. No. It's not.

4 MR. BROWN: No. '21.

5 THE WITNESS: This is -- This is April of  
6 twenty --

7 Q. (By Mr. Cross) Oh --

8 A. -- one.

9 Q. -- I'm sorry. You said '21.

10 A. Yes.

11 Q. I --

12 A. Yes.

13 Q. -- apologize.

14 A. Yes.

15 Q. Go ahead.

16 A. So if you go to the e-mails from our  
17 investigators from April of '20 -- May -- sorry --  
18 May of '21 -- you threw me off on the April thing --  
19 where Josh had discussed with James Blanchard, who  
20 had gone to the employees and the board members and  
21 said --

22 Q. Sorry.

23 A. -- that they --

24 Q. You got the names wrong.

25 A. No, sir.

1 Q. James --

2 A. James.

3 Q. -- Barnes --

4 A. Barnes.

5 Q. -- discussed --

6 A. Sorry.

7 Q. That's good.

8 A. B's and J's.

9 Q. Go ahead.

10 A. James Barnes had discussed with Josh  
11 Blanchard that he had gone to ask every employee and  
12 every board member if anybody had seen anybody come  
13 to work on these things, if somebody from Cyber  
14 Ninjas or anything else; and everybody had said no.

15 They said at that time, too, they were  
16 going in to look into -- that he was going to go to  
17 the IT department -- this is Mr. Barnes -- go to the  
18 IT department to see if he could get Misty's old  
19 e-mails to see if there was any -- any correspondence  
20 with them, and they never came back to us after that.

21 And at that point, we had been left that  
22 there was nothing to investigate. Nothing had  
23 happened here.

24 As I said, this was a long period of time  
25 on these things; and in the public, people have

1 conflated several of these items together, so those  
2 are the things we absolute --

3 We knew we couldn't get in the server yet.  
4 We knew that everybody there had already been asked  
5 about this who you would normally interview anyway.

6 Misty had never brought it up when any of  
7 our investigators were there, so there was -- so  
8 there was no real --

9 And, also, in real time, overstock.com guy  
10 was just sort of like the font all attempts to breach  
11 as sent from the Trump world. Was saying we couldn't  
12 get into Georgia.

13 If you go back to the overstock.com thing  
14 in July, I think is when he said something. It  
15 was -- It was the summer of '21, he had put out.  
16 Basically said, we tried to get into Georgia. We  
17 couldn't, and maybe he was talking about another  
18 area, but that's with all sort of conflated at the  
19 same time.

20 I remember in my gut at the time. I said  
21 he's probably referring to Ware County, because that  
22 was one claim we had had on those things.

23 Q. So let's break that down a little bit.  
24 You -- You said that there was no evidence of any  
25 potential unauthorized access in Coffee County as of

1 April of this year other than the snippet of a call  
2 between Mr. Hall and Miss Marks.

3 But that's not true, is it, sir?

4 A. I don't believe the business card's  
5 evidence of breach.

6 Q. But, well, let's look at it.

7 A. But we investigated that.

8 Q. Whoa, whoa.

9 A. Sorry. No. Hold on.

10 Q. Because Frances Watson and Chris Harvey  
11 fundamentally disagreed with you. So did James  
12 Barnes. Right.

13 Are you aware of that?

14 A. David, if you're going to frame a question  
15 that way -- And I don't want to argue. I want to be  
16 able to answer.

17 My point was they looked into it, and they  
18 found nothing to investigate as they interviewed  
19 everybody and said that, yes, they think it was  
20 something concerning. They all agree it's something  
21 concerning.

22 They looked into it, and a business card  
23 by itself doesn't do that.

24 If you look at the exhibits, they -- they  
25 had James Barnes go ask every person -- Did anybody

1 see this?

2 No.

3 Are you aware of anything along these  
4 lines?

5 No.

6 Where do you go at that point on those  
7 fronts?

8 Q. Well, that's a great question, Mr.  
9 Sterling. Did --

10 A. Oh, one of -- one of --

11 Q. You were dealing --

12 A. -- the things --

13 Q. Well, let me answer your question.

14 A. Go ahead.

15 Q. You -- You were dealing with a county  
16 that you had already found was unreliable where you  
17 had an open investigation, a rogue county that  
18 included members of the Coffee County Election Board  
19 like Eric Chaney, right?

20 A. Yes.

21 Q. Okay. So the Secretary's Office conducted  
22 an investigation in May of 2021 relying, as I  
23 understand it, largely, if not entirely on feedback  
24 from a county where it already knew that members of  
25 the Coffee County Election Board that were still

1     there were not reliable people. That's how you  
2     reached the conclusion that this didn't happen was  
3     you -- you asked the County, and the County that you  
4     already said you couldn't trust.

5           A.     I didn't say --

6           Q.     And they said we didn't do it.

7           A.     Misty was the one we said we couldn't  
8     definitely trust at all, because she had been  
9     misleading already, obviously.

10                   The secondary part of this, too, if I  
11     remember correctly, it was discussed -- and this is  
12     one of those things where it's not within a report;  
13     this just kind of came up -- that Mr. Barnes was  
14     going to try to pull the security tapes.  
15     Unfortunately, this is where a left hand and a right  
16     hand didn't seem to know which -- what each other  
17     were doing.

18                   He went to ask for the tapes around that  
19     period of time. They were no longer in the security  
20     system on that side. Unbeknownst to him, as I  
21     understand it, Misty Hampton had done an ORR for  
22     those tapes, I guess, to try to prove her innocence  
23     on the question of the hourly timing of her -- I  
24     don't know. I can't -- as to why she did a ORR at  
25     that period of time. But they existed in another

1 system that Mr. Blanchard -- sorry -- that Mr.  
2 Barnes was unaware of, so we knew --

3 Steps had been taken, and we discussed  
4 that. We had no reason to believe Mr. Barnes was  
5 unreliable, 'cause he was new; and the county  
6 attorney, like we said, had seemed to want to be  
7 cooperative to get to that point as well.

8 So Misty, from the point of the  
9 Secretary's Office, seemed to be the problem child  
10 more than anything else; and she was sort of leading  
11 the -- We had no reason at that point to have any  
12 issues around potentially the board, 'cause she's  
13 going to be leaving the board when she did that  
14 videotape; and they were all, hmm, yes. We get it,  
15 but there was no reason to think that they were going  
16 to mislead on those fronts. Everybody --

17 Q. Didn't you -- Didn't you know that the  
18 video that was put up on YouTube was actually  
19 authorized by the board?

20 Eric Chaney is there in the video.

21 A. Yes. But my point is: In a normal  
22 situation, you don't assume that every single person  
23 is not going to tell the truth. I mean --

24 Q. Except it --

25 A. -- that'd be a conspiracy that's a little

1 out of the norm from what we see in most of our  
2 investigations, in most situations.

3 And no doubt having all the information we  
4 have now versus when we have it then, we would have  
5 acted differently probably; but that's the situation  
6 we had at the time.

7 So it looked, had every hallmark of  
8 misinformation, disinformation. Had every hallmark  
9 of every other claim.

10 So that was where -- That was the  
11 information at the time; and I should have said  
12 there's always a possibility, just like I normally  
13 caveat things; but I was -- In my brain at that time  
14 I was pretty sure this is another pile of garbage the  
15 same way most of these other claims were piles of  
16 garbage. Most of the Trump claims -- let's all be  
17 fair -- were piles of garage.

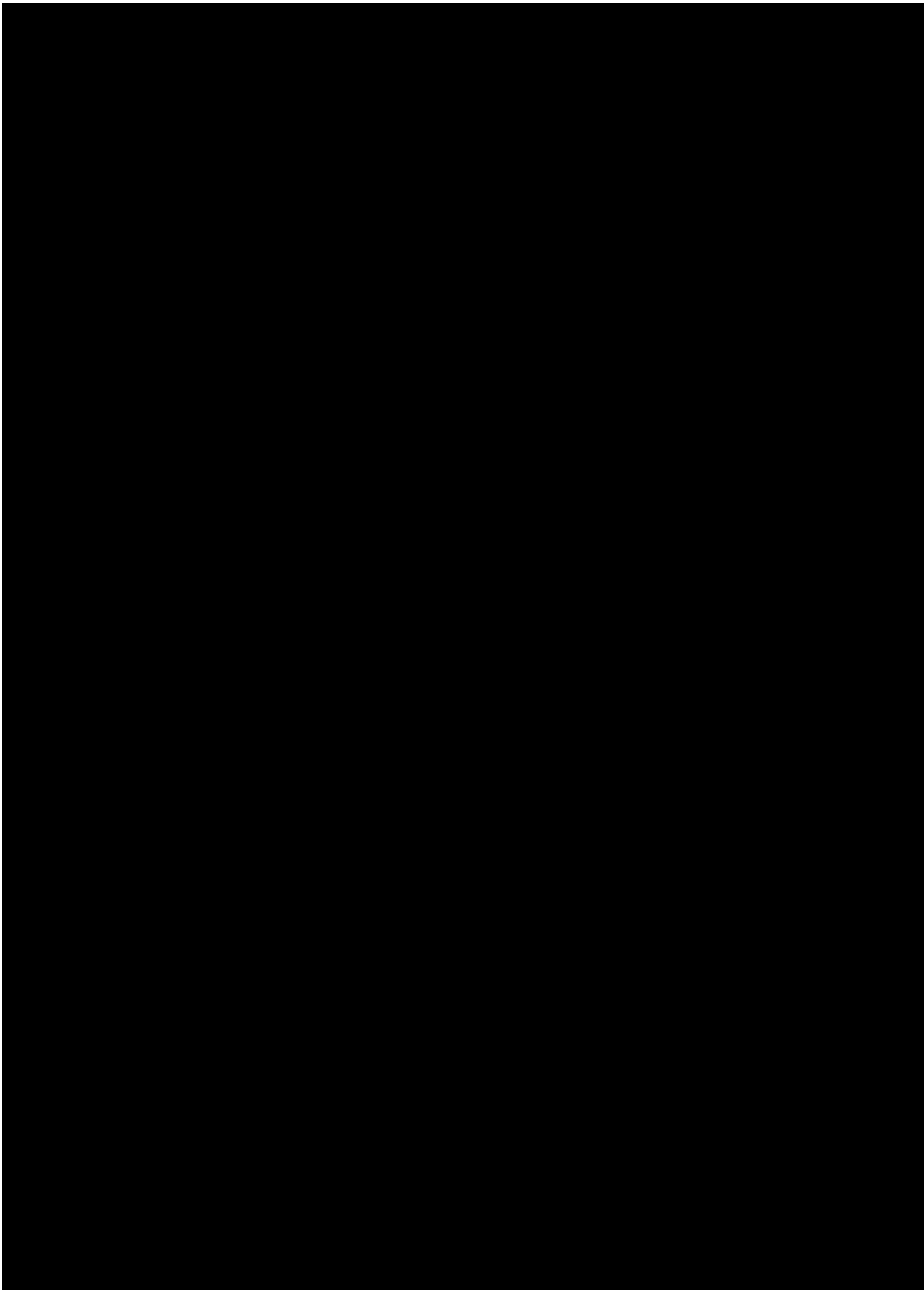
18 Q. All right. Let me hand you the next  
19 exhibit. It's Tab 58.

20 A. Thanks. I didn't hand it out. Sorry.

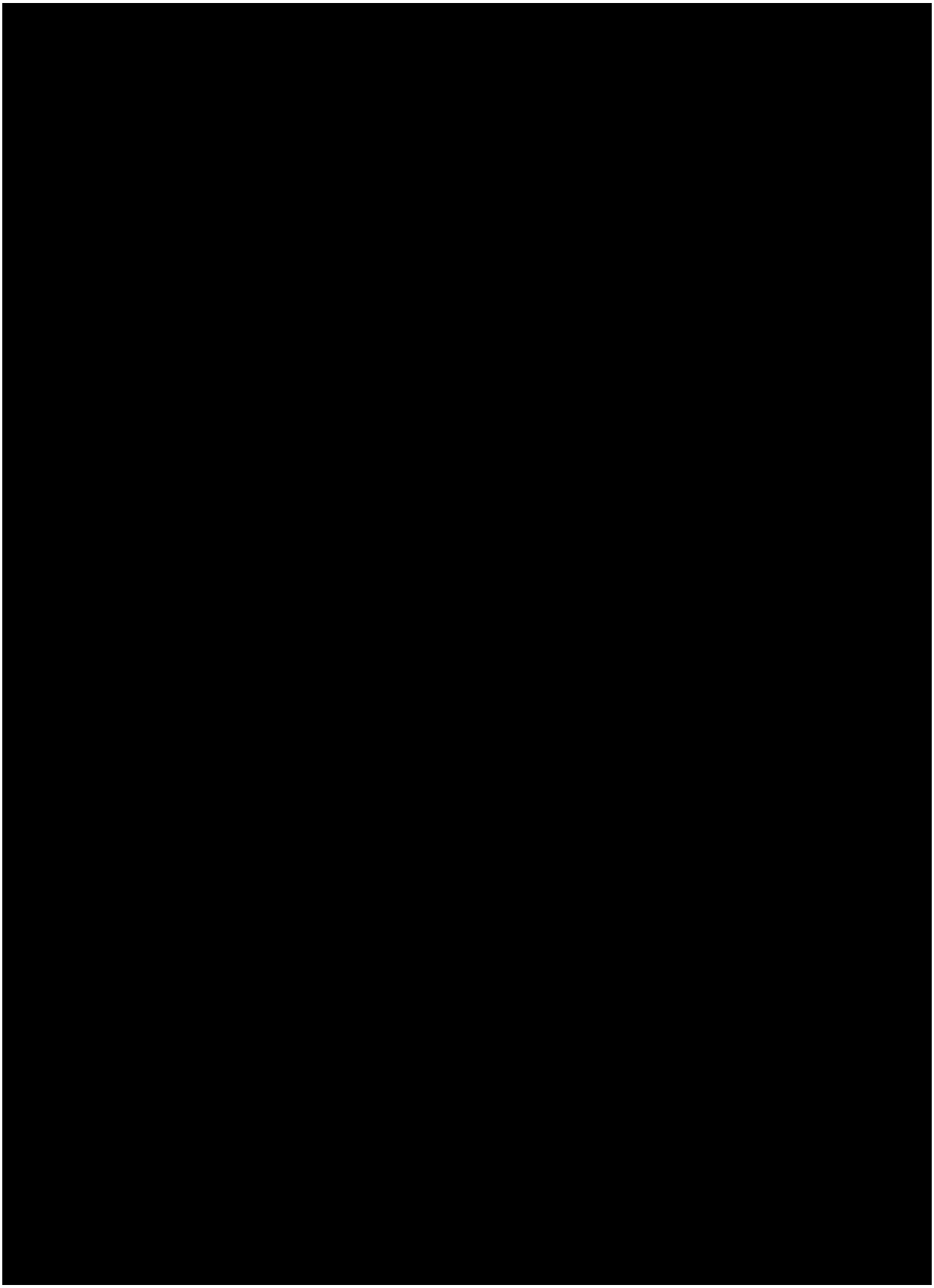
21 THE COURT REPORTER: Exhibit 7.

22 (Exhibit 7 was marked for identification.)  
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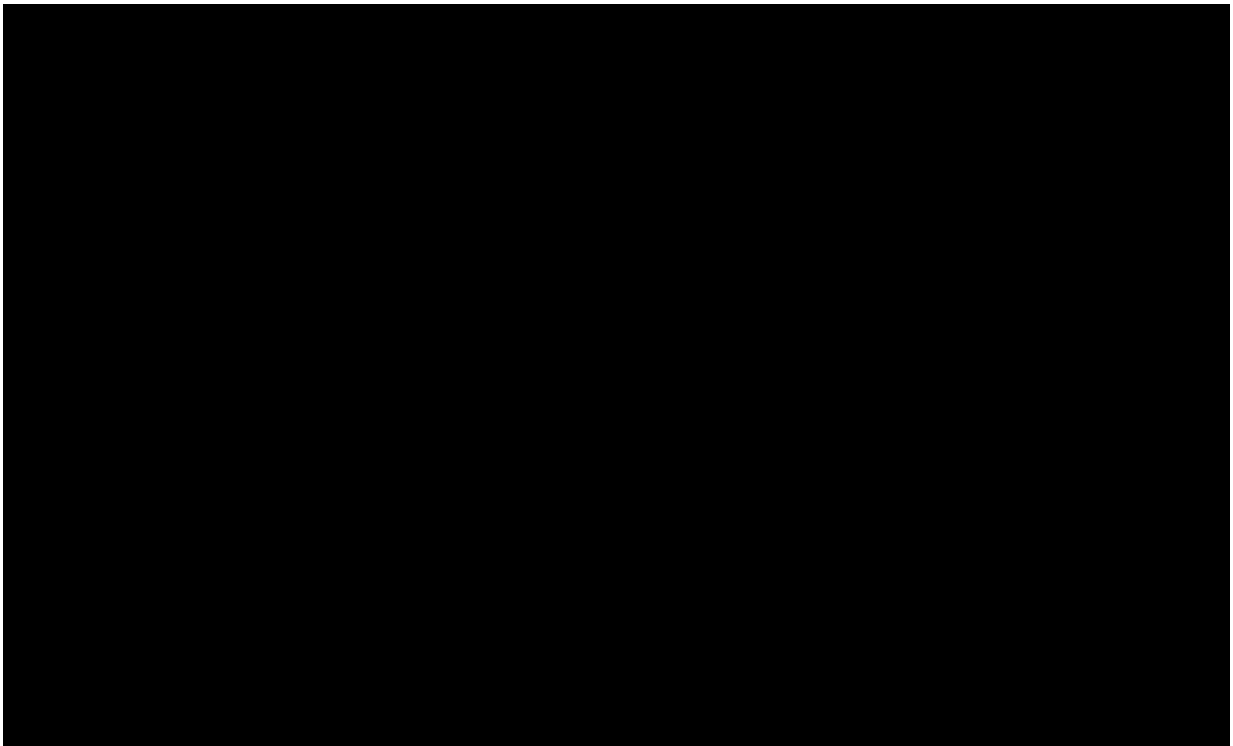
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Q. Okay. The Secretary's Office is aware that every county in this -- that every county election office in the state has video surveillance, right?

Let me -- Let me ask a better question. You were aware that this county elections office has video surveillance, right?

A. Yes.

Q. Okay. Why didn't you ask for that? Wouldn't that be step one?

A. I believe I just explained to you that James Barnes went to their -- As I understand it was explained to us -- And this is verbal. There's no unfortunate -- There's no e-mail about this.

1           He went to them and said, well, we did --  
2       That's all been deleted by now.

3           He was unaware that Misty Hampton had done  
4       an ORR. Because like I said, the left hand and right  
5       hand didn't know what they were doing.

6           So even if we had gone to ask them, we  
7       would have gone through James Barnes, who would have  
8       gone to the County and perhaps gone to the county  
9       attorney; but that's a hypothetical at this point,  
10      because he said it doesn't exist.

11          Q.     Wait. But you guys are the -- are --  
12      are --

13           You're the Secretary's Office. You have  
14      law enforcement authority to conduct an investigation  
15      into election security breaches, right?

16          A.     Potential ones, yes.

17          Q.     Okay. Why in the world would you rely on  
18      James Barnes, who was brand new to the office,  
19      instead of sending your investigator yourself to find  
20      out whether that surveillance video existed?

21           Wouldn't that be the normal course of a --  
22      of a -- of a sound investigation?

23          A.     If the person who --

24           MR. TYSON: Object to form.

25           THE WITNESS: If the person who reported

1           it is dealing with their own internal people and  
2           says the stuff you need doesn't exist, no.  
3           Normally, you would not send somebody at that  
4           point. No. That doesn't make any sense.

5                     We're going to not take your -- not --  
6           You're new to this. You reported this. Now we  
7           think you're going to try to cover it up, and  
8           we're going to go deeper into it?

9           Q.     No, no. I'm not suggesting that. I --  
10          I'm -- I'm asking a very different question.

11                    James Barnes is brand new to the office at  
12          this point. He's been there about five to six weeks,  
13          right?

14          A.     Correct.

15          Q.     Okay. Instead of relying on someone brand  
16          new to the office, no background there whatsoever,  
17          why not send your investigator down to speak with the  
18          members of the election board with people like Tracie  
19          Vickers and others who -- who have a lot more  
20          history and a lot more background on what might have  
21          happened?

22          A.     Because the gentleman who reported it  
23          says, I've looked. I'm asking this. Nobody's seen  
24          anything. We have no evidence. We've asked for  
25          videotapes. They don't exist.

1           At that point what else are they going to  
2 do, if those are the point? So --

3           Q.     What we did --

4           A.     -- again, knowing --

5           Q.     -- ask for the video, which we did.

6           MR. TYSON: Let him answer the question,  
7 please.

8           THE WITNESS: Wait. David --

9           Q.     (By Mr. Cross) Well, you asked --

10          A.     We --

11          Q.     -- a question.

12          A.     We asked a question for the videos. They  
13 said it didn't exist, because it wasn't in that  
14 particular system. It wouldn't occur to most people  
15 to think if the security people in charge of this  
16 tell us it doesn't exist, it's going to exist  
17 somewhere else because a random person who's been  
18 fired or resigned, due to be fired, did an ORR. It  
19 was a lucky for us and for y'all and unfortunate  
20 thing for Misty now, because this is actually proof  
21 that she did things that were not -- that were  
22 untoward.

23                You can look back with perfect vision,  
24 20/20, in the rear view mirror. I get that.

25                But the situation we had is we had tons of

1 these kinds of claims everywhere; and, again, we were  
2 trying to get into -- Actually, it's a different  
3 time. I apologize.

4 This looked like another one of those many  
5 claims that there was nothing there, and somebody  
6 might have tried to do something, but there's no  
7 evidence that was coming to the surface that would  
8 rise to that point.

9 And we had the videotape, and we had them  
10 claiming they couldn't do certification. We sent the  
11 chief of investigations in there, 'cause there was  
12 actual stuff we could that was wrong.

13  
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17 You don't then expend resources on things  
18 where it looks like this is a dead end. That's not  
19 what you do and --

20 Q. In a -- In a county that you already have  
21 identified through an open investigation was not a  
22 reliable county. A county that literally had held up  
23 the presidential election, because they refused to  
24 certify election results, you -- you -- you guys  
25 thought that that was a reliable county to just

1 simply say, well, they say it didn't happen; and they  
2 don't have video so that's the end of that?

3 A. It's not --

4 MR. TYSON: Object to form.

5 THE WITNESS: It's not they said it didn't  
6 that. We handed to our investigators. The  
7 investigators, who are the law enforcement  
8 people, make those decisions; and they basically  
9 said there's nothing there. We're moving on to  
10 the next thing.

11 I mean, it's not like, again, with  
12 hindsight being 20-20, yes. You should go in to  
13 go deeper on some of those things; but if we had  
14 to spend resources on every single one of these  
15 claims in a gajillion (ph.) ways in this  
16 state --

17 I mean, I'm going to give you an example  
18 just to put it in perspective for everything.  
19 There was a claim of pristine ballots in Fulton  
20 County. I think we're all aware of that claim.  
21 It was supposed to be in a particular batch. We  
22 had -- We sent two investigators down to that  
23 batch. They went through all of them. I think  
24 it was 20 man-hours, and they came back and said  
25 there's nothing there.

1           They went back to the complainant, who  
2           said, well, maybe there's a different batch.  
3           It's this batch number. It was a batch number  
4           that didn't exist. At that point, we were done.

5           My point is we expended resources and  
6           time. You have to triage these things; and,  
7           again, hindsight being 20-20, we now know a lot  
8           more than we did then, and we know a lot more  
9           than we did then, in part, because of what y'all  
10          were able to get the ORRs, so that's where we  
11          stood. That's where we stood at this time.

12          Q.       (By Mr. Cross) The situation we're  
13          talking about is one where it was publicly known that  
14          Cyber Ninjas was trying to get access to voting  
15          equipment across the country. The Dominion alert  
16          went out literally the day before, which is what  
17          prompted Mr. Barnes's e-mail, right?

18          A.       Correct.

19          Q.       Okay. You also had an election management  
20          server, an EMS server that you couldn't even access.  
21          That didn't raise any red flags?

22          A.       That's not --

23                   MR. TYSON: I'll object to form.

24                   THE WITNESS: As I stated before, we knew  
25          the history of that. We understood the history

1 of that. We knew what had happened essentially.  
2 We -- we -- Or we had good assumptions to what  
3 had happened.

4 Misty was gone. The EMS was changed out.  
5 The bad -- The not-good-at-her-job elections  
6 director was no longer there, so those were --  
7 that was not -- We would not have put those  
8 together. No. Because they're not related.

9 As you can see, we now know -- If you  
10 want to go back into 2020, we know that password  
11 was changed on December 14th, well before the  
12 January 7th unauthorized access, so they're  
13 unrelated items.

14 Q. (By Mr. Cross) Well, but you now know  
15 they're unrelated items, because you've had access to  
16 the server and seen that people had access to it.

17 A. No. I do not know that. They're --  
18 They're not -- They're unrelated items mainly  
19 because it -- they --

20 It was changed out, because the password  
21 was changed. The password was changed before the  
22 unauthorized access. That makes them unrelated.

23 Now it's -- It's now a piece of evidence  
24 that the unauthorized access occurred, but the reason  
25 we had it had nothing to do with the unauthorized

1 access. So no. You wouldn't just -- your brain  
2 would not jump -- No normal process of -- of logic  
3 would jump to that.

4 Q. But let me just ask you candidly, Mr.  
5 Sterling. Do you -- Do you understand how a third  
6 party looking at this says --

7 A. Hold on one second.  
8 I apologize, Mr. Cross.

9 Q. It's okay.  
10 Do you -- Do you understand how a third  
11 party looking at this set of circumstances might  
12 wonder in good faith whether the Secretary's Office  
13 just didn't want to know the answer, because it would  
14 be politically embarrassing to have to disclose that  
15 a system that the Secretary had claimed cannot be  
16 breached had been breached at an extraordinary level?  
17 Do you understand how that might be a good  
18 faith belief that reasonable people might take?

19 A. No.

20 MR. TYSON: And I'll -- I'll object to  
21 form here. This is outside what the Secretary's  
22 Office knows. We're now asking about what  
23 reasonable people might think.

24 Q. (By Mr. Cross) You don't think that that  
25 would be a reasonable view that anybody could take?

1 MR. TYSON: The same objection.

2 THE WITNESS: No. And let me tell you  
3 why.

4 Q. (By Mr. Cross) Okay.

5 A. Our office was wildly transparent. We  
6 investigated and traced down things left and right.  
7 We brought in the SEB. We literally stood up to the  
8 President of the United States trying to pressure us  
9 to do things, and yes. It would be embarrassing.  
10 But let me tell you how this office  
11 manages problems like this. You get ahead of them,  
12 you disclose them, and then you address them. Hiding  
13 things was -- was not a good thing to do.

14 It's better to admit every system,  
15 regardless of the system, if there is a bad actor who  
16 allows a -- a unauthorized access to any system is a  
17 problem. It is a security problem. It is a legal  
18 problem. It undermines people's faith in the  
19 systems, and we get that. That's why the people who  
20 did this need to be held accountable.

21 And if we had known then, if we -- if we  
22 had known earlier, we would have acted differently  
23 more than likely and been able to do different  
24 things.

25 But the situation is we didn't. Again,

1 knowing the level that we thought the likelihood of  
2 this was, we never stopped the investigation. We  
3 kept on trying to get into that server until we  
4 advised that, okay, what we're doing isn't working.  
5 And then we finally said, okay. Let's get to  
6 Persinger, who seems to have an expertise in this.  
7 We never stopped investigating once it became -- we  
8 became aware of it.

9           So in the second we discovered it, I mean,  
10 frankly, I was pissed, 'cause Misty broke the law;  
11 and people did things that were stupid and dumb; and  
12 again, hindsight, of course, we can look back and  
13 say, wow, I really wish we'd dug further into that,  
14 knowing what we know now. But we didn't know what we  
15 know now.

16           Q. But, Mr. Sterling, you said that the  
17 Office has been transparent about this. But the  
18 Office has given a lot of inconsistent information  
19 about what it did, when it did it, and what it knew,  
20 right?

21           MR. TYSON: Object to form.

22           THE WITNESS: I would say there have been  
23 misstatements and conflated items and bad  
24 questioning and bad answering.

25           And like I said earlier, it's been sort of

1 a soap opera with Coffee County, so it's easy  
2 for people to get tripped up on their own words  
3 and their own timeline when they're hearing  
4 questions a certain way.

5 Q. (By Mr. Cross) But the Secretary himself  
6 gave an interview just recently where he stated that  
7 the Office began investigating these allegations very  
8 soon after the breach happened, right?

9 A. Yes. And he was wrong.

10 Q. Right. Okay. And -- And what's the  
11 basis for your testimony that he was wrong about  
12 that?

13 A. Okay. 'Cause I've had discussions with  
14 Secretary about this interview; because when I saw  
15 the interview, I was, from my point, rightfully  
16 irritated for two reasons.

17 One it was supposed to be exclusively an  
18 interview about the action, so Mr. Richards, the  
19 journalist sort of, for lack of a word, ambushed him;  
20 so the Secretary wasn't briefed on any kind of  
21 timelines we knew at that point or anything.

22 And the secondary thing I was irritated  
23 about was, normally, the Secretary answers with it's  
24 under investigation. He was hearing the question of  
25 like the stuff from back in December, and we did

1 investigate that. We did send investigators down.

2 Now he may not have asked the question  
3 that way, but the Secretary is an engineer. He's a  
4 linear thinker, he's thinking from beginning to end,  
5 so that was when I talked to him about it.

6 He goes, well, yeah. That's -- Of  
7 course, that's what I meant. I was talking about  
8 from when she posted the video, and we did that stuff  
9 around certification. That's what he was referring  
10 to.

11 And, essentially, this entire interview,  
12 he had his timing mangled, and Doug was asking broad  
13 questions that weren't very specific, and it was --  
14 It was a ambush interview that The secretary hadn't  
15 been briefed on the specifics of stuff, even though  
16 he knew the basics of it.

17 And like I said, he was right. We did, as  
18 soon as we saw that video, we started kicking off an  
19 investigation; and we saw we couldn't certify. We  
20 sent people down there, so that was his mind of us  
21 doing that.

22 So the -- the two were unrelated in terms  
23 of timing, but they were obviously related now sort  
24 of and from hindsight.

25 Q. But -- But even in the course of that

1 interview and then follow-up in the Secretary's  
2 Office, conflicting information was given on when  
3 this investigation occurred. Right.

4 So he said it was very soon after. I get  
5 your testimony that --

6 A. Uh-huh.

7 Q. -- that -- he was talking about the  
8 original investigation.

9 A. Yeah.

10 Q. But within minutes of answering on that,  
11 according to the station, an aide to Raffensperger  
12 corrected the Secretary of State's response off  
13 camera and offered May of 2021 as the correct date.

14 A. Right.

15 Q. Then --

16 A. And that was wrong. That was Mike  
17 Hassinger. He's new to the office, and he got '21  
18 and '22 confused.

19 Q. Help me understand. Why is that wrong?  
20 We -- We have just spent several minutes talking  
21 about the investigation that, in fact, was done in  
22 May of 2021 --

23 A. Because we're talk --

24 Q. -- hold on -- hold on -- into a potential  
25 compromise. Well, Chris Harvey himself said --

1           A.       Uh-huh.

2           Q.       -- there might be a compromise in the  
3       voting equipment. We need to look into that.

4                   So May 2021 is, in fact, the correct date  
5       of when this investigation first began, based on what  
6       we have, right?

7           A.       There's two different things about this.  
8       There's the investigation number that was assigned  
9       that was given in December. It's got to be a new --

10                   THE COURT REPORTER: I -- I'm sorry.

11                   There's an investigation --

12                   THE WITNESS: Number that's been assigned.  
13       It was going back. This is where I say this is  
14       confusing. The intent, I believe, Mr. Hassinger  
15       was trying to talk about. He didn't know about  
16       those e-mails yet. They didn't -- we hadn't --  
17       We hadn't found them on our end yet about the  
18       back-and-forth.

19           Q.       (By Mr. Cross) So what was he talking  
20       about for May?

21           A.       He was talking about 2022 is when we were  
22       able to hand over --

23                   Again, his dates were just wrong. I don't  
24       know why he said that, that date. He was just wrong.  
25       He's new to the office. He was standing right there.

1 I found out about it after the fact. I  
2 yelled at him. I said, "You gave him the wrong dates  
3 for when we kicked off the -- the secondary  
4 investigation, Mike."

5 Q. Can I just clarify. Are you saying he --  
6 he meant to say May of 2022?

7 A. I don't know what he meant to say. It was  
8 just wrong. I said --

9 Okay. He said, "Well, that's what I  
10 thought."

11 I was like, "Well, no. It's not, Mike."

12 So I -- I had a lot of yelling that day.

13 Q. I guess what I'm getting hung up on, Mr.  
14 Sterling, is why is it wrong to say that the  
15 Secretary's Office was investigating a potential  
16 compromise of the Coffee County election equipment as  
17 of May of 2021, when we have now spent quite some  
18 time looking at e-mails showing that that actually  
19 did happen?

20 A. Except what you're talking about -- here's  
21 the thing -- from my point of view and what he was  
22 thinking are two separate things.

23 Q. All right.

24 A. This -- now -- now -- Now you want me to  
25 answer the question. I'm answering your question,

1 Mr. Cross.

2 They're two separate things. There was a  
3 thing that did happen in May of '21, and I don't  
4 think we were aware of that back-and-forth until -- I  
5 don't know -- the last couple of weeks or so when I  
6 went to Sara Koth and had the interview with her, and  
7 we -- And we found this e-mail subsequently, 'cause  
8 she didn't know she had access to some of this.

9 Q. Who -- Who is we?

10 Sara Koth works in your office. Josh  
11 Blanchard works in your office. Pamela Jones --

12 A. Okay. When I say we, I'm referring to me  
13 and Mike Hassinger right now. Okay?

14 Q. Okay. But just understand --

15 A. Stop. I'm trying to answer your question.

16 Sara didn't know she had access to  
17 Frances's e-mail at the time the first go-around on  
18 this. She subsequently found that out.

19 And I said do you have anything else on  
20 this?

21 And that's when this came to light. We  
22 handed it over to y'all.

23 Q. Right. But that's --

24 A. I mean, it's just, again -- Okay. Bring  
25 it all but --

1 Q. Right. Mr. --

2 A. On May of 2021, he was just wrong; and I  
3 said this interview, basically, everything in it is  
4 conflated and -- and just incorrect, and that's why I  
5 was so frustrated with the interview itself.

6 Q. Okay. So, remember, you're testifying  
7 today not as you --

8 A. Uh-huh.

9 Q. -- but as Secretary's Office --

10 A. Right.

11 Q. -- right?

12 Okay.

13 A. I was answering your question about what  
14 Mike Hassinger and I knew specifically about that.

15 Q. I -- I get that now.

16 A. Okay.

17 Q. So what I'm saying is, it is a fact that  
18 the Secretary's Office, multiple individuals, from  
19 Chris Harvey, to Michael Barnes, to Frances Watson,  
20 to Pamela Jones, to Josh Blanchard, all of those  
21 individuals were aware that the Secretary's Office  
22 was investigating potential unauthorized access by  
23 Cyber Ninjas to the Georgia voting system in Coffee  
24 County in May of 2021. Yes?

25 MR. TYSON: Object to form.

1 THE WITNESS: Yes. In the specific way  
2 you put that.

3 Now by this point, they're two separate  
4 things. Because at this point, it was like we  
5 now understand that with given the videotapes  
6 and everything. I can't remember the date of  
7 that.

8 But we really kicked it up into -- Okay.  
9 Once we saw that something had happened and that  
10 was in July, that was like a new -- Not new  
11 investigation; but, again a new phase of the  
12 investigation. That's what I was referring to  
13 as now we've -- we've real -- We've handed to  
14 GBI. We do those items, and that's kind of the  
15 difference between those things.

16 I mean, there is a -- obviously, a  
17 timeline, and we'll probably get into some of  
18 those things.

19 But that interview was just simply wrong.  
20 He was incorrect --

21 Q. (By Mr. Cross) Okay.

22 A. -- when he made those statements, and he  
23 didn't have a chance to get briefed up, because he  
24 was also surprised, because he wasn't supposed to  
25 be -- It was supposed to be a action feel good kind

1 of thing.

2 Q. Okay. So come back to Exhibit 7, the  
3 Frances Watson --

4 A. Yes, sir.

5 Q. -- e-mail thread. We do not have from the  
6 State that we've seen any further communications,  
7 e-mails, documents of any type regarding this  
8 investigation beyond Miss Watson's May 11th e-mail.

9 A. Correct.

10 Q. Okay. So do I understand correctly that  
11 the investigation into the Cyber Ninjas' potential  
12 access in Coffee County, that that ended or paused?

13 It -- It didn't go any -- any further  
14 than what's reflected in Exhibit 7, because the  
15 feedback from Mr. Barnes was we've not found any  
16 indication of an unauthorized access?

17 A. That, plus the -- He was going to go to  
18 the IT and see. Since we never heard back, there  
19 was, I think, an assumption made of, well, we didn't  
20 find anything there; and I know there was a  
21 conversation. Of course, my understanding of the  
22 conversation, which it will be --

23 We asked for videos, and the security team  
24 says they don't have them for this period of time;  
25 and, again, that was the right hand, left hand thing,

1 not knowing what they were doing.

2 Q. So when a representative of the  
3 Secretary's Office told 11 Alive, the local news  
4 station, that the Office did not know about or begin  
5 investigating Coffee County until -- until July of  
6 2022, that's -- that's not an accurate statement,  
7 right, 'cause the --

8 A. David --

9 Q. -- Office itself was investigating this in  
10 May of 2021.

11 A. Two separate investigations based on two  
12 different sets of information.

13 Q. I get that -- I get it.

14 A. So you're choosing to put them together.  
15 We're viewing it as two separate entities. This is  
16 a -- It's a different way of looking at it, I  
17 suppose.

18 You're right. Our office did look at it.  
19 There was nothing to pursue that they could see at  
20 that time from the evidence they had as a  
21 professional, POST-certified law enforcement  
22 investigators.

23 Now we have extra information that came,  
24 because we had Mr. Persinger able to get into the  
25 system. We see, yes, there actually was an outside

1 device that was plugged in. At that point, it took a  
2 different direction.

3 Again, I keep saying this. Hindsight is  
4 20-20, and we never stopped the investigation once  
5 the claim was made to us, I guess, at the end of  
6 February. When we got the snippet of Miss Marks's  
7 recording.

8 So we started to try to do it then with --  
9 with Dominion, with the resources we had; and part of  
10 it was, you know, frankly, dollar bills. How -- how  
11 are we going to pay? How are we going to afford to  
12 get into this, and what can we do.

13 And that's, I think, June. I said okay.  
14 We need to get Persinger to try to get into this.  
15 We've -- We've got to figure out binarily one way or  
16 the other did anything like that happen; and because  
17 we figured out we -- that Persinger might have the  
18 skill set to do that.

19 I didn't know Persinger existed for a  
20 period of time until probably May or June so -- of  
21 '22. Probably need to make that clear.

22 Q. Mr. Sterling, I -- I get that -- that the  
23 Secretary's Office has what you're characterizing as  
24 a different investigation now into the unauthorized  
25 access at Coffee County.

1 But there's a very specific statement that  
2 was made by the Secretary's Office, which was the  
3 Office, not just you or Mr. Hassinger or anyone else,  
4 that the Office did not know about or begin  
5 investigating Coffee County until July 2022 with  
6 respect to a potential unauthorized access. That's  
7 not an accurate statement, right?

8 There -- The Secretary's Office had  
9 multiple investigators on that in May of 2021.

10 A. And let's remember it was --

11 Q. Isn't that right?

12 A. Okay.

13 Q. Yes or no?

14 A. I'm going to say yes on this.

15 But let's remember something. We knew  
16 about SullivanStrickler before we knew about Cyber  
17 Ninjas, obviously; and, again, thanks, in part, to  
18 this case. I get that.

19 The point is it's two different things in  
20 the way we're looking at it. I can even concede the  
21 point. Yes. You're right. Our office was looking  
22 at a Cyber Ninja potential thing, and there no --  
23 nothing -- No evidentiary items that allowed us to  
24 say, yes, we should go dig deeper on that. Again,  
25 hindsight being 20-20, it doesn't.

1           So I'm not going to say that -- They're  
2     not the same investigation. They're tied together  
3     the same way that, I guess, you're trying to conflate  
4     the server issue to this. In hindsight, you can say  
5     yes. There might -- Might give you some pause on  
6     that, but you --

7           In the real time, with the environment  
8     that we were in, no. It didn't seem that way, and  
9     that's -- And we've treated as two different kinds  
10    of things, 'cause, obviously, we have a lot more  
11    information now that we've gotten into that server  
12    and that EMS.

13          Q.     Well, and let me follow up on that, 'cause  
14    I want to make sure we're on the same page on that.

15                 You say you've treated it as two different  
16    things. It's different investigations.

17          A.     Uh-huh.

18          Q.     But the representations made to us and the  
19    Court repeatedly was that this was all the same  
20    investigation, that, in fact, the investigation  
21    that's happened this year into the unauthorized  
22    access of -- of the voting system in Coffee County  
23    was all part of the original SEB 2020, dash, 250 as a  
24    single investigation.

25          A.     Because they reopened the case there.

1 That case number was easy to get from the SharePoint  
2 system to do it that way.

3 Q. But --

4 A. I -- Yeah.

5 Q. -- doesn't that mean they're separate  
6 investigations?

7 A. But hold on. I'm --

8 You're talking in two different realms.  
9 You have legal world and SOS world. I'm talking  
10 about that particular interview is for the public and  
11 everything, 'cause they were two very different kinds  
12 of things.

13 One, we have a lot more evidence and a lot  
14 more situational awareness now than we did in the May  
15 turn; and then, obviously, going back, if you look  
16 back in January, if someone had said something to us  
17 then, who was down there. I mean, we had an  
18 investigator in the room. They're talking to Misty  
19 getting that statement.

20 I'm going to say this again. Hindsight's  
21 20-20. This is all part of the same ark of problems;  
22 and we use that investigation number, 'cause it was a  
23 easy thing to do to -- to put it in that same  
24 investigation number.

25 I think there's a new investigation number

1 on it now. I can't recall. Remember that I said I  
2 was looking at the -- in -- in the logs on that.

3 That was started on, I want to say --  
4 There was an investigation in Coffee County started  
5 9-20-something of 2022.

6 Or they gave it a new investigation number  
7 I think.

8 Q. I was going to ask you about that. One of  
9 the things we saw recently is that there is a new  
10 investigation opened in September into -- I think it  
11 just says something to the effect of server breach.

12 Is that Coffee County, or is something  
13 that something else?

14 A. That's Coffee County. That's -- I think  
15 they just gave it for --

16 MR. TYSON: Well --

17 THE WITNESS: -- clarity's sake.

18 Oh, was that Spalding County?

19 MR. TYSON: May -- Could we check on that  
20 before --

21 MR. CROSS: Yeah. 'Cause I -- I -- I -- I  
22 was --

23 MR. TYSON: Maybe --

24 MR. CROSS: -- going to ask --

25 MR. TYSON: Yeah.

1 MR. CROSS: -- whether that's actually  
2 Spalding.

3 THE WITNESS: That might be Spalding.

4 MR. TYSON: Yeah. I think it might be a  
5 SullivanStrickler investigation. I don't --  
6 We -- We can check on this --

7 MR. CROSS: Okay.

8 MR. TYSON: -- for you, if you want us  
9 to --

10 MR. CROSS: Sure. Sure.

11 MR. TYSON: -- 'cause I think we can  
12 clarify.

13 THE WITNESS: I do know that we did open  
14 one into Spalding's on that front --

15 MR. CROSS: Okay.

16 THE WITNESS: -- because of that e-mail  
17 traffic that was found --

18 MR. CROSS: Okay.

19 THE WITNESS: -- or discovered.

20 MR. CROSS: I -- I -- I was guessing.  
21 That might be --

22 THE WITNESS: Yeah.

23 MR. CROSS: -- Spalding, but I wasn't  
24 sure.

25 Okay. Yeah. If you could clarify whether

1 Coffee County's still under the original --

2 THE WITNESS: The two five --

3 MR. CROSS: -- two five two --

4 THE WITNESS: -- zero.

5 THE COURT REPORTER: I have to have one  
6 person at a time.

7 MR. CROSS: Sorry. Okay.

8 THE WITNESS: Let's call it 250 for ease  
9 for everybody instead --

10 MR. CROSS: Sure.

11 THE WITNESS: -- of the whole rigamarole.

12 MR. CROSS: Okay.

13 MR. TYSON: And one point, David, that  
14 might be helpful also is we had in verifying,  
15 there's a difference in kind of big "C"  
16 complaint versus like little "c" complaint. I  
17 think we have a similar thing here. Like we  
18 have complaints that lead to formal  
19 investigation numbers; and then we have  
20 complaints that lead to, hey, is everything  
21 okay. Hang up the phone.

22 MR. CROSS: Okay.

23 MR. TYSON: So I think there might be a  
24 capital "I" investigation and a little "i"  
25 investigation in terms of what we're talking

1           about here with these so --

2           THE WITNESS:   So like --

3           MR. TYSON:   And I don't need to --

4           THE WITNESS:   Okay.

5           MR. TYSON:   I'm just trying to help  
6           clarify for him.  He can ask you questions --

7           THE WITNESS:   Okay.

8           MR. TYSON:   -- about that.

9           Q.       (By Mr. Cross)  One of the things that  
10          Secretary Raffensperger mentioned in the interview  
11          we're talking about was he -- he suggested there was  
12          testimony before a grand jury related to this that  
13          was not truthful.

14                 Do you know what that was about?

15          A.       I think he was -- Not in front of the  
16          grand jury.  I think he was referring to the State  
17          Senate Committee.

18          Q.       'Cause he said grand jury.

19          A.       I know he did.

20          Q.       Okay.

21          A.       Again --

22          Q.       He was just mistaken?

23          A.       Well, let me rephrase my frustration with  
24          the Secretary after this interview.

25                 Yes.  He was mistaken.  He was --

1 Q. Okay.

2 A. -- just putting those together so --

3 Q. So there has not been a grand jury  
4 convened by the State to investigate unauthorized  
5 access of -- of the voting system?

6 A. Not that I'm aware of.

7 Then, I mean, just to build on that, I  
8 believe in context that was Misty who testified to  
9 the State Senate Committee, the same one that Rudy  
10 Giuliani and those guys --

11 Q. Uh-huh.

12 A. -- went to.

13 Q. So fast-forwarding from 2021, February of  
14 2022 is when the Secretary's Office gets the snippet  
15 of the call with Miss Marks and Mr. Hall?

16 A. Correct.

17 Q. Okay. And then that gets shared with Ryan  
18 Germany, who calls for an investigation into those  
19 allegations, right?

20 A. Yes. I think we didn't do that. I'm not  
21 sure of the time of this. I've had a discussion  
22 about it, but I don't know if we did an investigation  
23 until we got the full audio of the full tape. I'm  
24 not sure of the timing on that. Would have been  
25 around -- It would have been kind of back-to-back,

1 so it would have been the same. Within a week or  
2 two, I think, of that's when we -- when it was all  
3 produced.

4 Q. Right. Ryan --

5 A. He was the one, though, who -- who said  
6 yes. Let's open something on this.

7 Q. Yeah. Mr. Germany called for an  
8 investigation into this in March of that year, right?

9 A. Correct. And it -- Like I said, I don't  
10 know if it predated us getting the full -- full audio  
11 or postdated it, but it was -- They were all  
12 within --

13 Q. Sure.

14 A. -- you know, a week or two of each other,  
15 I believe.

16 Q. Okay. So now we're in a timeframe where  
17 you've got the investigation -- we can say with a  
18 little "i," if you want -- from May of 2021 involving  
19 Cyber Ninjas.

20 A. Uh-huh.

21 Q. You've now got the call where Mr. Hall  
22 says they imaged everything.

23 A. Uh-huh.

24 Q. You've got the EMS server and the ICC in  
25 your possession. You've now got an investigation

1 opened into these allegations.

2 Why didn't the Secretary's Office at that  
3 point obtain the surveillance video that we, the  
4 Plaintiffs, later had to obtain months later? Why  
5 did it -- Why did we have to get that?

6 A. I think, step one, we had decided kind of  
7 internally was we wanted to get into the server first  
8 to see what time this all -- so we could go back and  
9 have binary questions we could ask the individuals.

10 Bob Guessum (ph.)?

11 MR. CROSS: Bruce, you mean?

12 THE WITNESS: Bruce. Sorry.

13 Q. (By Mr. Cross) Go ahead. Go.

14 A. I have a problem. When I hear people  
15 talking, I tend to try to listen; and it throws me  
16 off.

17 MR. BROWN: Okay.

18 THE WITNESS: My problem not yours.

19 So Ryan and the chief investigator said  
20 let's get into the server first before we start  
21 trying to go down, start interviewing people who  
22 we know. Like Misty testified. You're not  
23 going to get good stuff out of them, so let's  
24 get -- Let's get the actual evidence first and  
25 see if something happened, so we start trying to

1 get into that first.

2 And, again, I don't know how widespread it  
3 was known, 'cause this all kind of runs together  
4 timelinewise. There have been discussions about  
5 them trying to get that videotape before, and it  
6 didn't exist, according to the people we had  
7 talked to, because it was in a different system  
8 that those people were not aware of, and the  
9 people we would have talked to --

10 Now if it'd gone to the county attorney  
11 maybe; but, again, hindsight being 20-20.

12 So we wanted to see, try to get in the  
13 system. We had a hard time getting in the  
14 system, and, you know, we have -- We're doing  
15 many other things. So we --

16 Again, a representative from Dominion came  
17 down to try to get in. They couldn't get in, so  
18 they sent somebody else, I believe, in the  
19 middle of April. They couldn't get in, so we're  
20 trying to get through, through May.

21 And like I said, May, June, finally, okay.  
22 This isn't working. We've got to try find a way  
23 to get into this thing, so we can yes or no know  
24 what happened on that front.

25 And, again, our gut reaction is it

1 still -- this kind of comports -- If you look  
2 at all the plethora of information and stuff we  
3 saw and the individuals involved, they weren't  
4 viewed --

5 I mean, Scott Hall, like I said, he's an  
6 election denier, who we didn't necessarily put a  
7 lot of stock in what he said, because he was the  
8 one who said there was thousands of, you know,  
9 fake ballots that were there. There were people  
10 in the back room at the cafeteria at English  
11 Street who were, you know, looking or counting  
12 votes illegally.

13 And then, frankly, we have a litigant in  
14 the case on the other end of that call, so  
15 nothing -- and who attacks this office  
16 constantly, so the baseline of it is like we --  
17 we know we have to look at it. But in all  
18 likelihood, given all the information we have,  
19 this looks just like all the other  
20 misinformation, disinformation things we have;  
21 but we're not stopping the investigation.

22 So we kept on doing it; and finally, like  
23 I said, May, June was a discussion of we've got  
24 to get Persinger on it. I think there was a --  
25 literally a question of the Department of

1 Administrative Services and the slow pay on some  
2 of things for Mr. Persinger, so we were a bit  
3 concerned. Will he be able to do it or not.  
4 Not that they were intentionally doing it. It's  
5 just state government. They pay slow sometimes.

6 So they were discussing about doing that,  
7 and I think -- I don't know. I wasn't involved  
8 in any direct discussions, 'cause he was with  
9 the -- with the attorneys. I know that --

10 Like I said, I think the -- the week of  
11 July 4th, before July 4th was when he took  
12 possession of it; and by the following week, he  
13 had -- That's when we discovered that that had  
14 happened.

15 So the videotape, obviously, since I think  
16 it was already been told to us it wasn't there,  
17 we're not going to go chase something --  
18 double-check on it, I guess would be, for lack  
19 of a better word for that.

20 And we also had some turnover, and so  
21 maybe Sara Koth might not have been aware of  
22 that on the front end. I -- I couldn't say for  
23 certain. This didn't occur on that point.

24 And I think the only reason that  
25 particular video camera was there was for the

1 drop box. It was in the front section of that.  
2 I believe that's why that one was placed on the  
3 outside door.

4 Q. (By Mr. Cross) So the -- the GBI was not  
5 called in to investigate until August of this year,  
6 right?

7 A. The official request made in August. I  
8 think the initial discussions with Steven Ellis were  
9 at the end of June, early July. And it definitely  
10 kicked up after we discovered that there was a device  
11 that was plugged in.

12 Q. Which was when?

13 A. After July 4th. So July 6th or 7th, I  
14 think is when we became aware of that, give or take.

15 Q. Okay.

16 A. So then Steven kicked up -- he's -- He's  
17 basically the person who talks to the GBI. He's our  
18 deputy general counsel and elections counsel, Steven  
19 Ellis.

20 And then they have discussions on how do  
21 we do this. Well, you've got to figure out  
22 parameters. We'll go start lining up people. At  
23 some point, you guys send an official letter. So  
24 that was kind of how it all went through.

25 Q. As of August of this year, no one for the

1 State had conducted any interviews of anyone involved  
2 in the unauthorized access of the voting system in  
3 Coffee County, right?

4 A. Direct interviews other than with James --  
5 James Barnes because he said he had talked to people,  
6 and they said that it had happened in May.

7 Separately from this, as I said, it was an  
8 investigative decision to get hard binary evidence  
9 first, and we were working on a plan to  
10 essentially -- because of the timing of this, we were  
11 getting ready to send down our investigators with  
12 Steven Ellis to like -- As an example, they were  
13 going to go the pizza place that she had said she had  
14 bought pizza for to see do they have credit card  
15 receipts.

16 And we were looking for binary things that  
17 could go to saying the credibility is -- is proper  
18 for this witness, or it's not. We can impeach them  
19 or say they did know or they didn't know. We were  
20 trying to get those facts, and that was -- And  
21 that's an investigatory decision that was made  
22 starting in March. We had to get into this first  
23 before we interview anybody so that we can have more  
24 information than they do basically was kind of --

25 Q. (By Mr. Cross) Who --

1           A.       -- the plan.

2                   Ryan Germany --

3           MR. TYSON:   Okay.

4           MR. CROSS:   -- was the main person.

5           MR. TYSON:   Slow down, if you can.

6           THE WITNESS:  Sorry.

7           Q.       (By Mr. Cross)  Who --  Who made that  
8   investigative decision?

9           A.       Ryan Germany.

10          Q.       Okay.  And you said a number of times that  
11   the Secretary's Office did not have access to the EMS  
12   server, because of the password change; is that  
13   right?

14          A.       Correct.

15          Q.       But that's --  Are you aware that's not  
16   accurate?

17          A.       And --

18          Q.       Let --  Let me --

19          A.       No.

20          Q.       -- ask it this way.

21                   Are --  Are you aware that the data that  
22   sits on -- on an EMS server is not encrypted?

23          A.       No.  I'm not.

24          Q.       Okay.  So are --

25          A.       Let me say this.  We couldn't get into the

1 EMS server itself to look at it and get to the log  
2 files is my understanding without that password.

3 Q. Right.

4 A. That -- That was the issue. We couldn't  
5 get to see what is there. I think and -- Again, I  
6 think Dominion attempted to image it; and they  
7 couldn't come to any conclusions on it until we get  
8 to Mr. Persinger, and he was able to do all the  
9 proper things, 'cause that's his job. He knows how  
10 to do those items.

11 Q. Dominion tried to image it in April,  
12 right?

13 A. I believe it was April. Yeah. April --

14 Q. April?

15 A. The third week of April, so seven -- They  
16 first came down the 11th, and I think they came back  
17 the following week.

18 Q. Right.

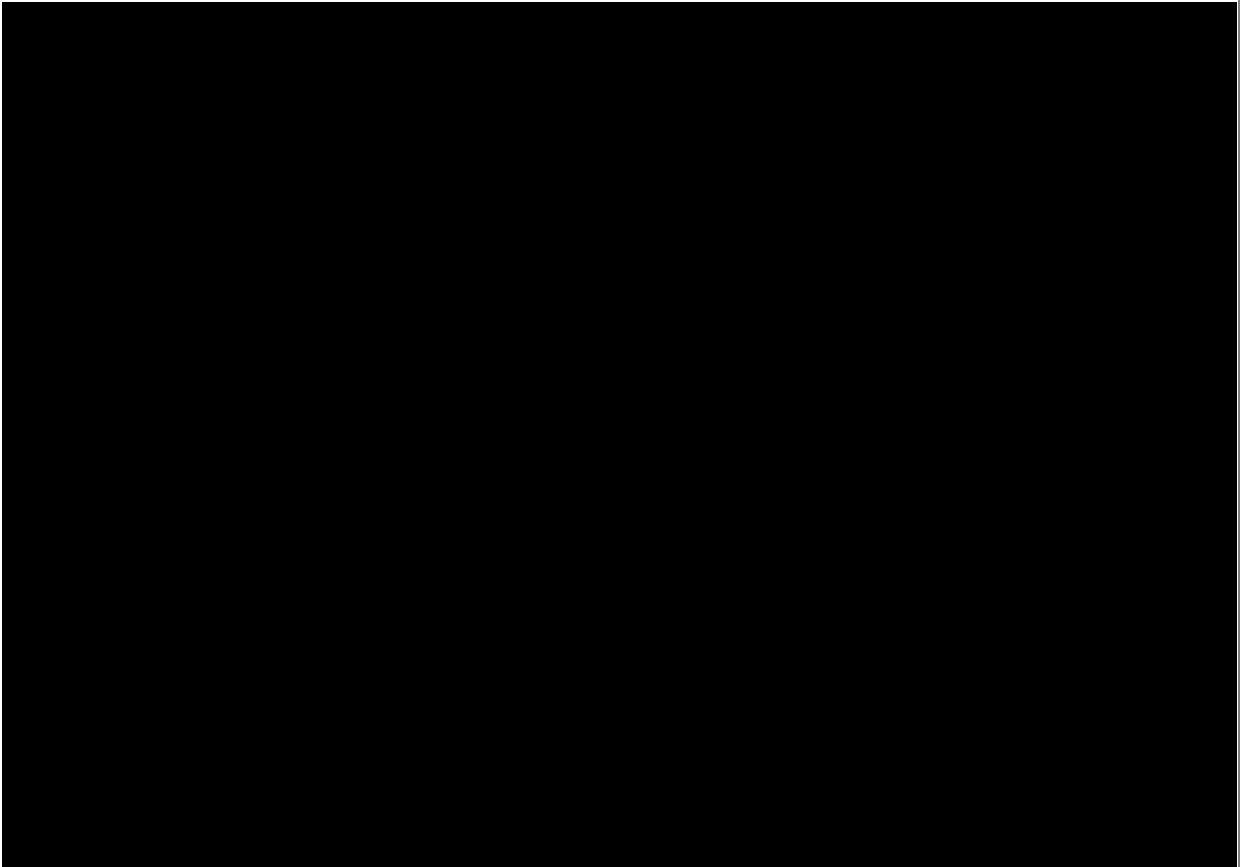
19 A. It was somewhere in that time range, yes,  
20 of '22.

21 Q. They tried to image the server, and they  
22 could not?

23 A. There was an issue with that, I believe.  
24 Yes.

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Q. And -- And we all agree that it's important to preserve whatever data, the log files and other things, that are on that original EMS server, right?

A. Correct.

Q. And that server is part of an ongoing criminal investigation?

A. Correct.

Q. And -- And did the Secretary's Office takes steps to preserve the data on the original EMS server?

A. By trying to image it and keep it. I

1 mean, we couldn't even get into it to do anything  
2 extra -- to image it, take anything off, or molest it  
3 in any way. So the fact that we couldn't get into it  
4 kind of preserved in its natural state from when it  
5 was picked up originally.

6 Q. Why didn't the Secretary's Office bring in  
7 someone like Fortalice, which Mr. Beaver testified is  
8 essentially serving as the CISO, the chief  
9 information security officer. What --

10 If Dominion couldn't get in and you  
11 couldn't get in yourself, why not bring in Fortalice  
12 or someone early on?

13 A. Actually, he's not the CISO. He's the  
14 CIO.

15 Q. No. Beaver is. But Mr. Beaver testified  
16 in his --

17 A. Oh, okay.

18 Q. -- deposition that Fortalice is serving in  
19 that CISO role.

20 A. To a degree. I think there's a question  
21 of time and cost, basically. I don't think -- it  
22 didn't -- Wasn't actually said, hey, we're not going  
23 to do it because of that.

24 Let's -- Let's go through Dominion first.

25 And then we said, well, we've got this

1 other person over here who might be better suited to  
2 do it. Honestly, that's -- that's kind of where it  
3 was in terms of we know they can do that, so that's  
4 Persinger's job. They can do that.

5 Now Fortalice, there might have been a  
6 discussion about that for a moment; but I -- I don't  
7 recall one, honestly.

8 Q. Okay. So when was the decision made to  
9 bring in Mr. Persinger?

10 A. The discussions were late May, early June.  
11 I think, like I said, there was a question because of  
12 DOAS not necessarily paying quickly. Would he be  
13 willing to do something like that.

14 Q. Uh-huh.

15 A. And that got worked out, and he was able  
16 to figure out how to get ahold of it in July, so it  
17 was like within a couple of weeks of the decision  
18 being made, it got -- it got executed.

19 Q. All right. Who made that decision to  
20 bring him in?

21 A. That would be basically Ryan and myself  
22 more than anything.

23 Q. Ryan Germany?

24 A. Yes.

25 Q. And what was Mr. Persinger's assignment?

1 What -- What's his role with respect to  
2 investigating the unauthorized access of the -- of  
3 the State's voting system in Coffee County?

4 A. He was an expert retained by our attorneys  
5 in this case. I'm not sure in other -- other cases  
6 or not.

7 And his portfolio in particular was get  
8 into this server and look at the log files and see  
9 what happened anywhere around this period of time.  
10 If -- If there was any devices done incorrectly.  
11 Was there anything where it looks odd. Did anything  
12 happen. Basically, go in and find out and tell us.

13 Q. It was the directive to him to make sure  
14 that he preserved the data on that original EMS  
15 server through his work?

16 A. As I understand it --

17 MR. TYSON: Oh --

18 THE WITNESS: -- yes.

19 MR. TYSON: -- okay.

20 THE WITNESS: Got to be faster next time.

21 Q. (By Mr. Cross) And what is it that --  
22 What can you share with me with respect to the  
23 Secretary's Office's knowledge about any analysis  
24 that's been done on that server and what's been  
25 found?

1 MR. TYSON: And I'll just caution you  
2 here, Mr. Sterling, for Mr. Persinger's work  
3 product, for attorney issues, and then anything  
4 related to the active investigation that's  
5 ongoing. I think you've already shared pretty  
6 much the details but --

7 THE WITNESS: And I can go over some of  
8 the specifics of it again. There was -- We  
9 know that was there was a device that was  
10 plugged in on January 7th.

11 Q. (By Mr. Cross) And that was a Samsung  
12 device?

13 A. We were hoping to keep that out for the  
14 investigatory side of it but -- And I know it's  
15 released to the public, so yes. It was a Samsung  
16 device, to my understanding.

17 Q. Is there anything more you can share about  
18 that device -- what it was, what was done with it?

19 A. Not that I think I'd be willing to right  
20 now under this investigation side, because, again  
21 we're trying to be able to question people and see if  
22 they know -- have actual knowledge or not, basically.

23 We also know the date of the password  
24 change was 10-14.

25 MR. TYSON: December.

1 THE WITNESS: That's right. December  
2 14th. It's ten -- today. December 14th of  
3 2020.

4 And some of the other details, I -- I  
5 couldn't speak to necessarily, 'cause that's --  
6 The GBI is now leading on this --

7 Q. (By Mr. Cross) Uh-huh.

8 A. -- as part of an active criminal  
9 investigation, so I don't want to get too deep into  
10 what the Office itself may know, because the GBI is  
11 leading on that; and they can choose to keep us in  
12 the loop or not.

13 They're not keeping us out of the loop,  
14 but they're kind of keeping, you know -- They're  
15 running lead, and they are the GBI.

16 Q. Was there -- Does the Secretary's Office  
17 have any indication of remote access to the EMS  
18 server?

19 A. Not that I'm aware of.

20 Q. Is that something they looked for?

21 A. I don't -- I don't know.

22 Q. Okay. Does the Secretary's Office, has it  
23 looked for whether there is any sort of malware on  
24 the EMS server?

25 A. It's my understanding. Yes.

1 Q. And that was Mr. Persinger?

2 A. Yes.

3 Q. And they did not find any?

4 A. Not that I'm aware of.

5 Q. Has his -- Has anybody from the  
6 Secretary's Office examined whether any of the  
7 software was altered in any way on that server?

8 A. If I remember correctly from the  
9 discussion, nobody from the Secretary's Office has.  
10 This was all Mr. Persinger's --

11 Q. Uh-huh.

12 A. -- information on this.

13 MR. TYSON: And I think that's as far as  
14 you need to go --

15 THE WITNESS: Okay.

16 MR. TYSON: -- investigative work  
17 productwise.

18 MR. CROSS: Well, I guess we've asked --  
19 Take that to the judge then.

20 You're not going to let him share what Mr.  
21 Persinger has found?

22 MR. TYSON: No. Not at this -- Not at  
23 this point.

24 Yeah. I think he can testify whether  
25 there -- they found malware or not. I think we

1 can do that.

2 MR. CROSS: Uh-huh.

3 MR. TYSON: But I think beyond that, we're  
4 going to have an issue.

5 MR. CROSS: I mean, the e-mail I have from  
6 you, Brian, is saying that he would share the  
7 Secretary's Office about the EMS server.

8 MR. TYSON: Uh-huh. And he has. He  
9 shared a lot of details about the EMS server on  
10 what it's found, and he can share whether or not  
11 they found malware on the ES -- EMS server.

12 But if we're going to get further into  
13 what analysis Persinger has done, that's where I  
14 have an investigative and a -- and a work  
15 product issue.

16 MR. CROSS: All right. I guess we'll have  
17 to come back to that then.

18 Q. (By Mr. Cross) Do you know why the  
19 Secretary's Office directed Mr. Persinger to change  
20 the password on the original Coffee County EMS  
21 server?

22 MR. TYSON: And I'll object, and I -- I  
23 think we're getting into work product on  
24 specific things here. We're here about the  
25 events about the access. I think we're pretty

1 far afield from the knowledge of that; and,  
2 plus, this gets into Persinger's process, so I  
3 don't see where we're -- where we're within the  
4 scope.

5 MR. CROSS: That's a critical component of  
6 understanding the scope of the unauthorized  
7 access, what they did.

8 MR. TYSON: What Persinger did to the  
9 server?

10 MR. CROSS: Well, because it affects --  
11 You've altered the evidence that we are  
12 ourselves relying on.

13 MR. TYSON: I just think you're factually  
14 incorrect on that.

15 MR. CROSS: Well, you need to talk to your  
16 consultant if you don't know the answer to that.

17 MR. TYSON: Okay.

18 Q. (By Mr. Cross) Are you aware that Mr.  
19 Persinger altered the password on the original the  
20 EMS server?

21 A. No.

22 Q. You're not aware that he was directed to  
23 do that by someone in the Secretary's Office?

24 MR. TYSON: Again I'll object in terms of  
25 direction from Secretary's Office and then work

1 product.

2 Q. (By Mr. Cross) Do you know one way or the  
3 other whether he was directed to do that by someone  
4 in the Secretary's Office?

5 A. I do not.

6 Q. So you can't share any insight into why he  
7 would have done that?

8 MR. TYSON: Again, object to form. You're  
9 assuming that he changed it.

10 Q. (By Mr. Cross) Do you -- Are you aware  
11 when you change the password on a Dominion EMS  
12 server that --

13 MR. KNAPP: In Coffee County?

14 MR. CROSS: What?

15 MR. KNAPP: You talking about Coffee  
16 County?

17 MR. CROSS: No, no. Just in general.

18 MR. KNAPP: Okay.

19

20

21

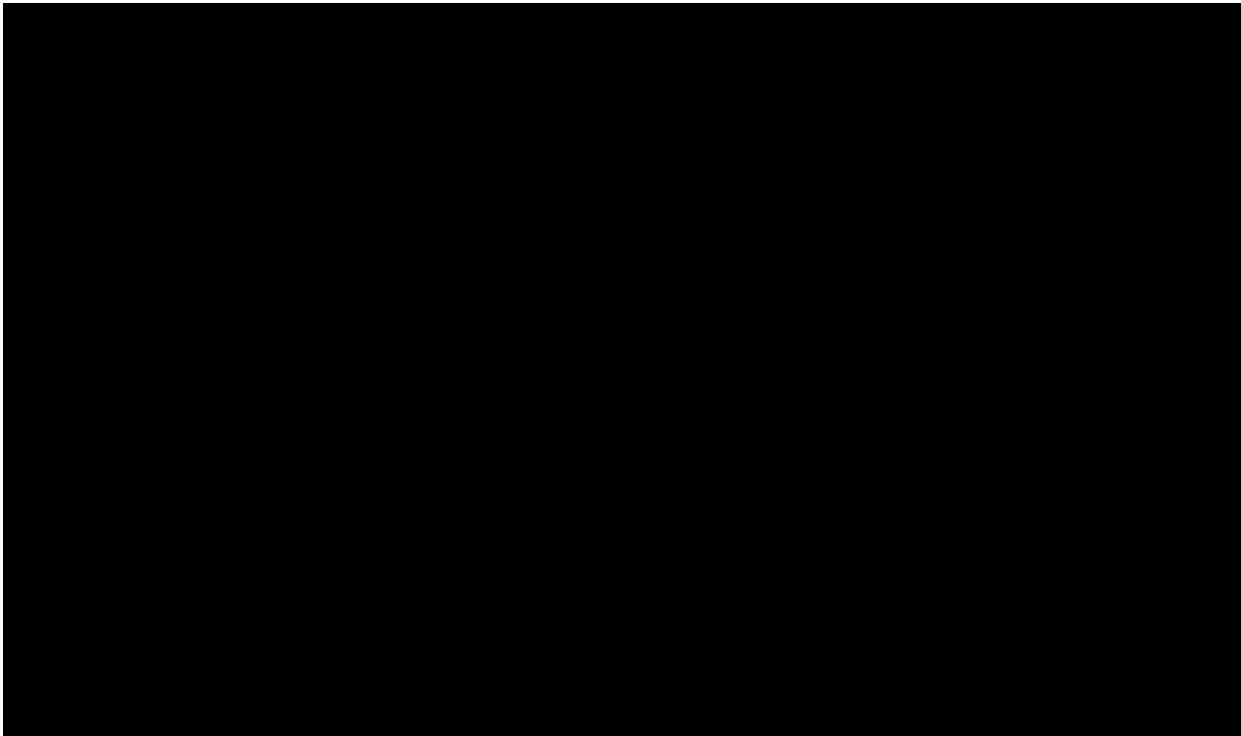
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MR. CROSS: All right. Why don't we --  
Why don't we take a short break. I think we've  
been going over an hour.

THE WITNESS: We have.

MR. CROSS: Okay.

MR. TYSON: Okay.

THE WITNESS: I -- my timing -- my --  
my --

MR. CROSS: I figured you were going to  
give me a heads-up on a break, but we can break  
now.

THE WITNESS: I'm doing okay.

MR. KNAPP: Your biological clock.

THE WITNESS: Yeah.

1 MR. KNAPP: Yes.

2 THE VIDEOGRAPHER: We're going off the  
3 record at 11:28.

4 (Recess from 11:28 a.m. to 11:43 a.m.)

5 THE VIDEOGRAPHER: We are on record at  
6 11:43.

7 Q. (By Mr. Cross) Mr. Sterling, are you  
8 aware of any changes made to the original EMS server  
9 after the Secretary's Office took possession from  
10 Coffee County?

11 A. The Coffee -- You mean the Coffee County  
12 EMS, not --

13 Q. Correct.

14 A. -- made by Coffee County.

15 I am not aware of any changes that would  
16 have been made to that. No.

17 Q. Okay. And what about the ICC?

18 A. Not that I'm aware of.

19 Q. Okay. The -- The Secretary's Office took  
20 the EMS server from Coffee County in June of 2021, as  
21 I understand it, because the password didn't work; is  
22 that right?

23 A. June 8th. Yes.

24 Q. Okay. Why did the -- And sorry. Just to  
25 take a step back, are you aware that James Barnes

1 testified in his deposition that his understanding in  
2 dealing with the folks who came there, Chris Bellew  
3 and a Mr. Patel --

4 A. Uh-huh.

5 Q. -- his understanding that they were taking  
6 the EMS server was because there was a concern about  
7 a compromise per Mr. Harvey's e-mail?

8 A. No.

9 Q. But your testimony on behalf of the  
10 Secretary's Office is that that server was taken and  
11 that had nothing to do with any concern that it had  
12 been compromised?

13 A. Correct.

14 Q. Okay.

15 A. Mr. Barnes also stated, I believe, in his  
16 deposition that no one followed up with him after he  
17 talked to Chris; and obviously, we have evidence to  
18 show.

19 This is time differentials on these  
20 things.

21 Q. Uh-huh.

22 A. So I don't think that anybody --

23 Q. Uh-huh.

24 A. I don't think anybody's misleading  
25 anybody. This -- This is my memory and

1 understanding from a year out or something --

2 Q. Uh-huh.

3 A. -- like that.

4 Q. The -- Why did the Secretary's Office  
5 take the ICC when it took the EMS server?

6 A. I think they're connected. I don't know.

7 Q. But you're aware that the password, the  
8 ICC password still worked. It was fully operational?

9 A. Maybe it was. I don't know. I don't have  
10 an understanding as to why they took both of them.

11 Q. Okay.

12 A. I think I said that they're --

13 Q. Well, and I'm not asking you to  
14 speculate --

15 A. Okay.

16 Q. -- if you don't know.

17 A. I'm going to say one thing. As I  
18 understand it, their SOP is to just do that. Like I  
19 said -- Like I said, take it down there and replace  
20 it, so that's -- I didn't --

21 Once they said they did that, I just kind  
22 of left it at that.

23 MR. TYSON: David, do you want us to check  
24 with CES on a break on that point on what the --

25 MR. CROSS: Sure --

1 MR. TYSON: -- reason was?

2 Okay. For sure --

3 MR. CROSS: That's fine.

4 MR. TYSON: -- we can -- we can get into  
5 that.

6 MR. CROSS: Yeah.

7 Q. (By Mr. Cross) Are you aware that the  
8 clock on the EMS server was changed, on the original  
9 Coffee County EMS server was changed in January of  
10 2021?

11 MR. TYSON: Object to form.

12 THE WITNESS: No.

13 Q. (By Mr. Cross) And -- And you use  
14 computers, right?

15 You can look at your computer, and you can  
16 pull up a clock that tells you the date and time,  
17 right?

18 A. Yes.

19 Q. Okay. And you understand an EMS server  
20 has that same function?

21 A. Yes.

22 Q. Okay. So you had not heard before now  
23 that when Doug Logan and Jim Persinger were there  
24 accessing the system that --

25 A. Jim Persinger?

1 Q. Sorry. Let me get that right.

2 A. So we can both do that. It's okay.

3 Q. Yeah. No.

4 A. It shows --

5 Q. No. Thank you.

6 A. -- we're human.

7 Q. They all start to run together. Let me  
8 try that again.

9 In January of 2021 when Jeff Lenberg was  
10 there, you have not heard before now that the clock  
11 on the EMS server was reset to November 5th so that  
12 the server would think in that moment that it was  
13 November 5th of 2020?

14 A. No.

15 Q. And have you heard that the clock on the  
16 ICC in that same timeframe was reset to November 3rd,  
17 2020, which was the election date?

18 A. No.

19 Q. So I gather you don't have any insight  
20 from the Secretary's Office on any investigation why  
21 that was done?

22 A. Again, given the timing of it, we may not  
23 have been aware of it. GBI might be aware of it --

24 Q. Okay.

25 A. -- because of the -- the handoff and those

1 things.

2 Q. Okay. But you are aware that Jeff Lenberg  
3 spent the better part of each of five days in January  
4 of 2021 in that office with access to the equipment?

5 A. Yes.

6 Q. And what, if anything, can you share with  
7 me about what the Secretary's knowledge has about  
8 what he was doing or might have been doing?

9 A. Once we hand --

10 At that point, we had that information, I  
11 believe. GBI was taking the lead on that, so  
12 Secretary's Office would not have specific knowledge.

13 Q. Okay. Who made the decision to -- to  
14 replace the ICC and the EMS server in June of 2021?

15 A. I wouldn't call it a decision. It's a  
16 standard operating procedure. You couldn't get into  
17 it, so change them out. That's a State --

18 I guess Center for Elections did that,  
19 'cause they took it down there, and they -- and  
20 the -- They were hoping to be able to get into it,  
21 but they had that so that they could run their  
22 elections and do their items, so that was, like I  
23 said, a normal standard operating procedure, so I  
24 guess policy made the decision more than anything.

25 Q. Is there a written policy or documentation

1     you can point us to that lays out that policy?

2           A.     No. My discussions with Michael Barnes,  
3     basically, that's just what we do; and it's always  
4     what we did in the old systems, too, under the old  
5     GEM system. If some of that happened, they would  
6     take the GEMS with them.

7           Q.     But, again, the ICC had no access issue.

8           A.     Again, I couldn't say why.

9           Q.     Okay. And as I understand it, they came  
10    down on June 8th, confirmed that the EMS server was  
11    inaccessible, and they replaced both that day; is  
12    that right?

13          A.     It's my understanding. Yes.

14          Q.     Okay. And do you have any insight into  
15    why the decision was made not to replace any  
16    additional voting equipment in that office at that  
17    time?

18          A.     Because, again, there was no issue around  
19    that. They had an issue with a password getting into  
20    the EMS. That was the only thing that was in  
21    contention.

22                 Again, hindsight being 20-20, you can now  
23    see these things potentially having been connected in  
24    that -- in that -- in that --

25          Q.     Uh-huh.

1           A.       -- kind of way.

2                   But at the time, these were two CES guys.  
3       These weren't investigators. Like I'm going down  
4       there to work on the EMS. I'm going to change out  
5       the EMS, 'cause we can't get into the EMS.

6                   So they did a normal situation and a  
7       normal office thing. It's -- You know, it's just a  
8       normal process.

9           Q.       On how many prior occasions has the State  
10       replaced an EMS server for a county in the Dominion  
11       system that was inaccessible?

12                   MR. TYSON: And I'll object to scope. I'm  
13       not sure that's within the scope of what we  
14       tried to do.

15                   But if you know, you can answer.

16                   THE WITNESS: Because of inaccessibility,  
17       none that I'm aware of other than this one.

18       I --

19                   Under the old system, I was under --  
20       Michael's told me, yeah, it happened on  
21       occasion; and I know we changed out one server  
22       for Spalding, because there were concerns  
23       because when the new board came in, they said  
24       this door was unlocked. We don't know who was  
25       here.

1                   We said okay. Let's take the question off  
2                   the table and replace the EMS there.

3           Q.        (By Mr. Cross) When was that?

4           A.        Spring of 20 -- I don't want to go out.  
5           I think it was spring of '21, I believe, 'cause a  
6           new -- a new board had come in. It was after they  
7           passed the laws where they changed the board members  
8           out on that one, so that's my understanding.

9           Q.        Okay.

10          A.        So it would have been at -- at a minimum  
11          post-April, I believe, 'cause the governor had only  
12          signed that into law to make that -- 'cause of local  
13          legislation on that.

14                   Mr. Cross, am I going to need these  
15          anymore, you think? May I get them out of the way?

16          Q.        I think you can set them to the side.

17          A.        Okay. Thank you.

18                   MR. CROSS: We're -- Are we at seven?

19                   THE VIDEOGRAPHER: Eight.

20                   MR. BROWN: Eight.

21          Q.        (By Mr. Cross) All right. Let me hand  
22          you Exhibit 8.

23                   (Exhibit 8 was marked for identification.)

24                   THE WITNESS: Thank you.

25          Q.        (By Mr. Cross) And this is at Tab 70.

1           A.       Thank you.

2                   MR. CROSS:   Let me get one back.

3                   MR. BROWN:   Yeah.   Okay.   That's -- Okay.

4           Q.       (By Mr. Cross)   All right.   So Exhibit 70  
5       (sic) is an e-mail from -- I'm sorry -- a letter,  
6       sent via e-mail, from Steven Ellis in your office,  
7       right?

8           A.       Correct.

9           Q.       And you said that he's the deputy general  
10       counsel, and he oversees elections and  
11       investigations?

12          A.       On the investigation side, it's general  
13       elections investigations; but yes.

14          Q.       Okay.   And he -- This is a letter that he  
15       sent to the GBI on August 2nd of 2022, right?

16          A.       It's the official request for the GBI to  
17       get involved.   Yes.

18          Q.       In the second paragraph, he writes --  
19       With respect to the -- the unauthorized access to the  
20       State's voting system in Coffee County, he writes,  
21       "The suspected unauthorized access took place  
22       following the January 2021 runoff elections and the  
23       possibly accessed system has not been used in an  
24       election since that time."

25                   Do you see that?

1 A. Yes, sir.

2 Q. That's -- That's not actually accurate,  
3 right, that the possibly accessed system has not been  
4 used in an election since that time?

5 A. I don't believe it was used in -- I don't  
6 recall there being any special elections down there.

7 Q. Well, there were three elections in Coffee  
8 County since January of 2021, right; or you just  
9 don't know?

10 A. Well, I'm trying to think. Well, the EMS  
11 is what we're talking about specifically here.  
12 That's the evidence we have of that at that time.

13 So there have been no elections done on  
14 the EMS, and that's what he's referring to here.

15 Q. Well, hang on. There's been three  
16 elections in Coffee County since June 8 of 2021,  
17 right?

18 A. Yeah.

19 Q. Okay.

20 A. Well, let's see. There could have been.  
21 I'm not positive. I'm trying to think of dates in my  
22 head where there have been specials, or just we had  
23 the primary, primary runoff. And what else?

24 MR. TYSON: Municipal.

25 THE WITNESS: Municipal's in 2019. Okay.

1 MR. TYSON: Twenty twenty --

2 THE WITNESS: 2021. Yeah.

3 Q. (By Mr. Cross) Right.

4 A. If they had any, 'cause not every county  
5 has them, so I'll take your word for it that, yes,  
6 there were three.

7 But, again, this is a discussion about the  
8 EMS at that time.

9 Q. Right. But we now know from the  
10 information obtained from Sullivan|Strickler, the  
11 photos, that what was accessed would be on the EMS  
12 server and the ICC, right?

13 A. Correct.

14 Q. It included a number of compact flash  
15 drives, thumb drives, laptops.

16 You understand that, right?

17 A. Yes.

18 Q. And the Poll Pads?

19 A. Yes, sir.

20 Q. All of that equipment or at least some of  
21 it, which wasn't just possibly accessed -- we know it  
22 was accessed -- was used in multiple elections since  
23 January of 2021 and since June 8 of 2021?

24 A. Yes. To -- To be clear, this is  
25 referring to the EMS, 'cause that's the information

1 we had at the time, so understand that as well.

2 Q. Okay.

3 A. 'Cause we -- As Mr. Persinger pointed  
4 out, we knew. That's when we figured that out.  
5 That's when we kicked this off.

6 Q. So okay. So I -- so the --

7 So Mr. Ellis's letter, when it says, "the  
8 possibly accessed system," it's referring to EMS  
9 server that was installed on June 8?

10 A. Correct.

11 Q. Okay. Okay. Thank you.

12 In a court hearing on September 9th of the  
13 this year, your counsel stated, quote, the access  
14 these people had to the system was that they wanted  
15 access to show something and not necessarily alter  
16 something from what we know.

17 What's the basis for the Secretary's  
18 belief that the -- the individuals who had this  
19 access, that was -- that they did not alter  
20 something?

21 A. I think in the context of the statement,  
22 the goal of the people, their stated goal publicly in  
23 November through December through January was to  
24 prove the election was stolen. That's what they were  
25 attempting to do. They're trying to say, look, we

1 have now found the fraud. This is the machinery that  
2 caused it. This is the situation that occurred.  
3 That was their -- from their -- That was their  
4 stated intent.

5 So I think that's the basis of that  
6 statement. Their intent -- Their intention would  
7 have been to prove the election was stolen; and if  
8 they had, they probably would have a giant red flag  
9 on a mountaintop waving it around.

10 Q. Uh-huh. But -- but -- So fair to  
11 say this -- this is -- this is a guess about what  
12 their intentions were. You don't actually know what  
13 their intentions were.

14 A. I can't get into the mind of anybody,  
15 obviously, who's not ourselves in our office; and  
16 the -- It's based on their statements and based on  
17 the environment at the time.

18 The goal was to prove that the election  
19 was stolen from President Trump. Like these election  
20 deniers, conspiracy theorists all point -- There's  
21 the fraud. There it is, and this is why he should  
22 still be president.

23 Q. Well, and let's pause on that. Because as  
24 you pointed out earlier, the situation here is  
25 actually quite different than what you refer to as

1     their modus operandi. Their modus operandi before  
2     the breach in Coffee County was to be very public, as  
3     you pointed out, right? To say, look, we're doing  
4     this. We're getting access, and we're going to show  
5     that the election was wrongly decided, right?

6           A.     Except in the other cases where they were  
7     public, they were granted access by some authority  
8     that seemed to be okay with it. In -- In Arizona,  
9     the State Senate, obviously. In Michigan, I believe  
10    there was, I believe, another group that did that.

11                So this goes back to looking back at what  
12    we know now. Misty and them all realized there were  
13    violating laws and rules here. Maybe we don't waive  
14    a flag at this until we know for certain we found  
15    something, so maybe they'd gotten more sophisticated,  
16    'cause they'd gone through the November time period  
17    and the December time period. I can't remember where  
18    the Arizona ridiculous thing was going on at that  
19    point.

20                So, again, I can't get into their  
21    mind-set, and you're right. This seems a little bit  
22    different; but the rationale behind it might have  
23    been, hey, I don't want to go to jail.

24           Q.     Well, but you're drawing the distinction  
25    that I'm -- I guess I'm having hard time to

1 understand.

2 Because according to the folks that did  
3 this -- Misty Hampton, SullivanStrickler -- they have  
4 the same authorization they had in other  
5 circumstances. They had the authorization of the  
6 elections director. They had the authorization of  
7 multiple members or at least one member of the Coffee  
8 County Election Board, and they had Cathy Latham  
9 holding herself out as an election official telling  
10 them they were authorized.

11 A. But she wasn't an election official.

12 MR. TYSON: Object to form.

13 Q. (By Mr. Cross) Sure. But -- but --

14 A. My point is it wasn't a public kind of  
15 thing on that front, so I think there's a --

16 I can't get in their mind-set. You're  
17 right.

18 Q. Uh-huh.

19 A. I can't know why they didn't do it that  
20 way; but, again, everything we've seen shows that.  
21 And, again, new information you just gave me as to  
22 that, it looks like they were trying to see what was  
23 the configuration with those dates, if something  
24 different would happen. That's why -- Maybe that's  
25 why they moved those dates on those machines, if

1 that's actually the case. I'm just taking your word  
2 for it --

3 Q. Uh-huh.

4 A. -- right now.

5 So, again, these people were hired by  
6 Sidney Powell essentially. That was -- I guess  
7 SullivanStrickler was hired by another law firm first  
8 and transferred over to Sidney Powell, and they were  
9 given the marching orders to potentially go forth and  
10 find fraud.

11 And I think at this point, too, in  
12 November and December, everybody was kind of  
13 running a -- I say everybody. The election deniers  
14 were in a tumult. They were -- They were very spun  
15 up and very public about they were doing. Lin Wood  
16 was having rallies. You know, Sidney Powell would go  
17 to rallies and --

18 Q. Including Robert Sinners.

19 A. Including Robert Sinners. I don't think  
20 it was rallies or not; but he was, you know, on those  
21 things.

22 So looking back on this now, I can't say  
23 for certain; but there's two things I take away from  
24 this. One, they didn't find anything; and, two,  
25 their -- their goal wasn't necessarily to add

1 anything or do anything. I don't know if they had  
2 skill sets or not.

3 But you're -- You're right. We can't  
4 know that with suppositions based on what we've seen  
5 and the evidence that we can get that I don't have  
6 access to now, because the GBI is now in charge of  
7 the investigation.

8 So I can't know for certain. You are  
9 correct.

10 Q. So one -- one key difference here with  
11 respect to the access in Coffee County versus others  
12 is that they kept it quiet, despite having  
13 authorization from local officials. And I'm not  
14 suggesting that's lawful authorization.

15 A. Yeah.

16 Q. They were authorized by local officials.

17 Another key difference is timing. Right.  
18 This is January 7th through the end of the month.  
19 This is after Congress has already certified the  
20 election and Biden is declared the winner.

21 So my question to you is: Has your office  
22 considered whether that -- those set of  
23 circumstances, coupled with the amount of time they  
24 spent there, the changes that they made to the EMS  
25 server that we know of so far, whether any of that

1 conveys to you that they actually were not just  
2 looking historically, but looking prospectively?

3 A. I think that we take any of these  
4 unauthorized access seriously and have to take  
5 that -- Not knowing means you have to at least look  
6 and see if that's there, so I'm --

7 Again, since it's a little out of our  
8 hands now, I'm hoping the investigators will look to  
9 see if any -- anything was done along those routes,  
10 so any of that kind of thing.

11 The reality of it is I still say looking  
12 at it, looking back, you're assuming rational actors  
13 on some of this thing. The president's been -- You  
14 know, the president's been certified.

15 There were people who -- to this day, who  
16 on my Twitter, if you probably go -- you seem to like  
17 it, you can go back and look -- are saying put  
18 President Trump back, damn it. Okay. So there's  
19 people who still believe if they showed enough, they  
20 could go to -- go to a court somewhere and overturn  
21 it.

22 Now I think that's obviously beyond the  
23 pale; but, again, we can't get in the motivations of  
24 people who believe in their heart of hearts that the  
25 election was stolen, all these terrible things

1       happened, so I can't go to that.

2               But we always have to take into account  
3       that there's a possibility they could have been  
4       saying let's undermine the next round. I don't think  
5       SullivanStrickler's like that. Cyber Ninjas maybe.  
6       Again, I don't know.

7               But to take the question off the table, we  
8       took all that stuff out of there, obviously, 'cause  
9       I -- In the real world, I don't think that there's a  
10      likelihood that it happened; but we have to take into  
11      account that it might have, so that all been  
12      remove -- That question's been taken off the table  
13      now from our point of view and, hopefully, eliminates  
14      the discussion points and reasonable questions of  
15      reasonable doubts around those things.

16              So I get it, and I was the last one to  
17      want to do that. I said, basically, if we give in on  
18      this particular point that the whole system's  
19      compromised, then you're saying basically anything  
20      with a computer in America could be -- could go this  
21      route, which is not -- When we look at all the stuff  
22      we have to do to run elections, that's just not a --  
23      a rational place to be.

24              But yes. You -- To answer your question,  
25      we do take into account that could have happened, but

1 the likelihood in our -- in our mind is probably not;  
2 but again, that's kind of out of our hands until GBI  
3 finishes everything on the criminal side.

4 Q. It sounds like you had a concern that if  
5 the Secretary's Office replaced additional voting  
6 equipment in Coffee County, which it ultimately did,  
7 that that might imply that the system's compromised.

8 But why -- why couldn't -- I guess I want  
9 to understand why you have that concern. Because  
10 can't the Secretary's Office just convey to the  
11 public that it's not aware of any compromise, but the  
12 mere potential is enough to say we're not going to go  
13 forward with this equipment, and we're going to  
14 figure out a different system that voters can have  
15 confidence in?

16 A. There's two different things that you're  
17 asking.

18 Again, our office doesn't believe that  
19 there's actually likely any malware on those  
20 machines.

21 Q. Uh-huh.

22 A. We had a plan. We were going to send in  
23 Pro V & V to potentially load a new golden record on,  
24 review the hash values with third-party stuff, and I  
25 know there are ways to potentially to get around

1 that, but it would have been a rational thing to do.

2 And I know it's going to come across oddly  
3 as I try to talk slower. I really am trying.

4 And secondarily --

5 THE COURT REPORTER: And did you repeat we  
6 had a plan and something about Pro V & V and  
7 loading a golden record.

8 THE WITNESS: Pro V & V to load the new  
9 golden record, which would have been the  
10 EAC-certified software on to all those things or  
11 to assure that they were there and unmolested.

12 But this essentially takes everything off,  
13 even hidden malware ideas and everything like  
14 that. This takes the discussion point away.

15 And taking the discussion point away was a  
16 bigger part of attempting to show the general  
17 public that the system overall isn't  
18 compromised, so that -- that was the thought  
19 process behind it, because there are people  
20 making claims that the entire system is  
21 compromised because of this, when we do not  
22 believe that to be the case.

23 And people can -- Honest people can argue  
24 about this, and I understand that, but our job  
25 is to run an election and make sure that people

1 can have confidence in the outcomes, and the  
2 election is run well. That's the overall  
3 rationale behind doing that.

4 I got a thumbs up from the court reporter,  
5 People. I was good. I did good.

6 MR. KNAPP: Now keep up your record.

7 THE WITNESS: That's going to be hard.  
8 Dave's going to ask me questions and get me  
9 irritated, and I'll get ramped up again.

10 Q. (By Mr. Cross) Do you know whether anyone  
11 has looked at any of the voting equipment taken from  
12 Coffee County to determine whether any kind of  
13 malware was tested on the system?

14 A. Not yet. I think we're discussing about  
15 trying to -- I'm working on getting a long-term  
16 contract, Pro V & V, through our procurement process  
17 to allow for us to go, through, do investigations  
18 like that. Potentially, we had discussion about  
19 potentially Fortalice coming in or some other  
20 third-party group to look just to assure that; and  
21 then if there is anything, loading a golden record;  
22 and even if there's not any discussion about loading  
23 a new golden record on.

24 And subsequently, as I mentioned before,  
25 we're looking at moving to 5.17 on Democracy Suite

1 from Dominion; and they can be wiped and reloaded  
2 with that afterwards, too. So there's different ways  
3 we can go about this; but I would like to -- I think  
4 we would like to know if anything like that did  
5 occur.

6  
7  
8  
9  
10  
11  
12  
13  
14 Q. What -- Who made the decision to bring in  
15 Mr. Persinger?

16 MR. TYSON: I believe he's already  
17 answered that.

18 THE WITNESS: I did.

19 Q. (By Mr. Cross) Sorry.

20 A. I said it was basically Ryan Germany and  
21 myself.

22 Q. Oh, I'm sorry.

23 A. Yes.

24 Q. You did.

25 A. Right.

1           Q.       Sorry. I couldn't remember that. The  
2 follow-up question I was going to ask is what was the  
3 reason to bring in someone new, Mr. Persinger, as  
4 oppose to using Fortalice?

5           A.       I just think he was there, and it was a --  
6 He was an expert, and we were looking for some way to  
7 get in.

8                   That was -- it wasn't a -- It wasn't like  
9 a Fortalice or him kind of thing. I think it was  
10 like we know this guy can do this. We've spun our  
11 wheels for a minute. Let's try a different approach.

12          Q.       And what led to the decision to bring in  
13 Mr. Persinger? What -- What set of facts?

14          A.       I think I just answered that. I'll do it  
15 again.

16          Q.       No, no. You were answering a different  
17 question, I thought. I asked you why -- why you --  
18 you would -- you didn't bring in Fortalice. What I'm  
19 asking is a more specific question.

20                   What were the circumstances that rose to  
21 the level in your mind and Mr. Germany's mind, oh, we  
22 should bring in a consultant?

23          A.       Oh. When Bruce was writing a note to you,  
24 I said we were spinning our wheels doing what we were  
25 doing. We had to go a different direction.

1 That's --

2 And we basically said we need to -- we  
3 need to know one way or the other.

4 Now, again, my gut reaction was it's  
5 probably going to show nothing. That was my -- But  
6 I wanted to know. I wanted the Secretary's Office to  
7 be able to say, no, this didn't happen; or, yes, it  
8 did; and then take the appropriate steps from there,  
9 'cause we tried to work with Dominion. And it was  
10 just taking too long. We weren't getting anywhere.

11 We made the decision we need to move on to  
12 something else, some other way to do it; and  
13 Persinger was available for that.

14 Q. Okay. So let me just make sure I  
15 understand, 'cause I get that you said you were sort  
16 of spinning your wheels and you wanted to know.

17 But I'm trying to dig down a little more  
18 deeply to say was there some particular fact, some  
19 revelation that led you to say, okay, we should bring  
20 in a forensic consultant?

21 Does that question make sense?

22 A. Oh, it makes sense; but there was -- there  
23 was not a, oh, there's this new fact item we have to  
24 do this. It was sort of like this is taking too much  
25 time.

1           And one of the things I want to just give  
2     some context on, all of our lives are not focused on  
3     this one thing, obviously. We're doing lots of  
4     different things, so this is part of a amalgam of  
5     different things we're working with and trying to  
6     deal with.

7           So Ryan and I were both kind of  
8     frustrated, going I -- I wish we had an answer to  
9     this already. What do we need to do to change that,  
10    so we can --

11           A lot of our time is spent trying to clear  
12    things off the decks. Like we try to clear SEB  
13    investigations off the decks, 'cause we know that  
14    2022 is going to have a lot of new claims that we're  
15    going to have to investigate and do again.

16           So we didn't want this one just kind of  
17    hanging out there as -- as a potential issue, so that  
18    was -- That was part of the rationale; and again,  
19    there wasn't a (indicating) this happened. Let's go  
20    do that kind of thing.

21           Q.     To your point about not wanting this sort  
22    of hanging out there, why didn't the Secretary's  
23    Office replace the EMS server and the ICC last month  
24    when it replaced all the other equipment, given that  
25    other equipment had been used with the new EMS server

1 and ICC?

2 A. Internally, we didn't think -- We said we  
3 already replaced it, so that should take care of it  
4 kind of thing. There was an internal debate of like  
5 let's just clear them all out.

6 And then there was, well, why? I mean,  
7 it's already been replaced since they woke us. We  
8 can give them another debate point, but it was  
9 ultimately decided.

10 And then by the time we said, well, maybe  
11 we should, LMA had already started. We had to start  
12 the election process over again, so it's now running,  
13 so you couldn't, even if you wanted to, bar -- bar in  
14 making that chaos. But a lot more difficulty in  
15 running the election.

16 Q. Well, I guess help me understand that.

17 I mean, the -- the Secretary's Office was  
18 able to replace the EMS server and the ICC in Coffee  
19 County in June of last year in a single day with --  
20 with -- according to Mr. Barnes, without any advance  
21 notice they were going to do that.

22 A. Uh-huh.

23 Q. So it sounds like it's a pretty simple,  
24 quick process. Why couldn't they -- they do that as  
25 part of the broader process in September of replacing

1 the rest of the equipment?

2 A. Well, like I said there were two different  
3 discussions on this point. We replaced all the  
4 stuff. We said we already replaced that, so it  
5 didn't -- It wasn't a mind-set, too, like they  
6 interacted with these things.

7 And, again, remember, from our point of  
8 view, we don't believe that any malware is actually  
9 probably there; but we'll -- To take the debate  
10 point away and -- and take away the -- the -- the  
11 fear mongering around it, said let's get them all out  
12 of there.

13 It then came up at another point later on.  
14 Said, well, these other two things have been  
15 interacting with them.

16 And then there was a internal debate point  
17 of like, well, we've already replaced this.

18 Oddly, Marilyn has her hand up.

19 We've already replaced this; and then we  
20 said, well, maybe we should look at it; but by that  
21 point, the election -- We're in the election window  
22 now. You've got to realize we sent UOCAVA ballots  
23 out starting 49 days out, so that was seven weeks  
24 from the election.

25 So when the internal debate got to the

1 point, well, maybe we should look at something like  
2 that, again, when we run elections, we have to look  
3 at everything we're doing, this just being one sliver  
4 of the cybersecurity side. You have to look at all  
5 of the processes and thing -- and everything going  
6 on.

7 So it would have been more chaotic and  
8 more risky to then change it out at that -- by the  
9 time it had reached that point; but there was an  
10 internal debate about it, because, again, most people  
11 are under the impression nothing else -- we -- we got  
12 everything else out of there. This is a new EMS, so  
13 there shouldn't be any issue with that, so that was  
14 kind of the -- the thought process behind it at the  
15 time.

16 We were trying to act reasonably as we  
17 could, given the situation we were in.

18 Q. Well, what all did the Secretary's Office  
19 replace in Coffee County last month?

20 A. I believe, if memory serves, and if I --  
21 This may not be completely --

22 Q. Uh-huh.

23 A. -- all of it; but I remember it was the  
24 BMDs, the printers, the cords. I believe we might  
25 have changed out the battery supplies, but I don't

1 recall for certain on that one. The -- The  
2 scanners. The ICPs. The memory cards, and I believe  
3 the jump drives for everything.

4 In fact, we were originally going to  
5 change all those out. There was never a question  
6 internally that we were going to do that. That was  
7 going to be done, but then I think all of that was  
8 changed out.

9 And then the Poll Pads. Pardon me. I  
10 forgot. Them as well.

11 Q. I mean --

12 A. And the cords and all their --

13 Q. Right.

14 A. All the parent -- All the parent-child  
15 things within the system were changed out.

16 Q. There are over a hundred BMDs in Coffee  
17 County, right?

18 A. Correct. I -- I think it's just barely  
19 over a hundred, but I believe that's correct.

20 Q. Somewhere between a hundred and a hundred  
21 twenty, I think, is what we --

22 A. Something --

23 Q. -- refer to.

24 A. Yeah. I think it was a hundred and nine,  
25 if memory serves, but something like that.

1           Q.       So I guess where I'm kind of struggling is  
2 why it would be more chaotic or difficult to just add  
3 two more pieces of equipment when you're already  
4 replacing over a hundred BMDs and dozens of thumb  
5 drives and flash drives and Poll Pads and printers?

6                    You're literally adding two additional  
7 pieces of equipment that are core to that system that  
8 have been used with equipment that you know had been  
9 improperly accessed.

10           A.       You're conflate -- You're conflating two  
11 different decisions.

12           Q.       Okay.

13           A.       We replaced everything; and from our point  
14 of view, we already replaced those two pieces of  
15 equipment. Okay. So we replaced everything else.

16                    Now it came up later on. Said, well,  
17 since they interacted with this, maybe that could be  
18 another secret -- super secret way that malware could  
19 go from one thing to the other.

20                    And we said, well, again, highly unlikely;  
21 but by the time we kind of got to a point that maybe  
22 we should do that, we had --

23                    I remember I was in a Home Depot talking  
24 to Ryan over the phone about this; and once we  
25 decided, well, maybe we should look at that, at that

1 point, the election was underway.

2 That's what I mean where the chaotic thing  
3 would come in, because you can't change out those  
4 particular core pieces in the middle of an already  
5 running election. We've already begun the process of  
6 logic and accuracy.

7 Q. So okay. So is -- is -- is it that --

8 There was a decision made at some point in  
9 the last couple of months. We'll replace all the  
10 equipment that has not been replaced yet, so that's a  
11 bunch of stuff other than the EMS server and the ICC.  
12 That was on track.

13 And then at some point later, it occurred  
14 to you guys, well, maybe we should replace everything  
15 to just head off this argument that you should  
16 replace everything; but at that point, it was too  
17 late?

18 A. Essentially.

19 Q. Okay.

20 A. And -- And, again, it was we have to deal  
21 with all the moving pieces and parts of an actual  
22 election being underway; and, again, from our point  
23 of view, we're trying to take things off the table to  
24 take away the debate point; and I believe the  
25 Coalition reached out to people and said, hey, those

1 are still there. That's a -- that's a -- That's a  
2 problem.

3 And, again, the reaction was, well, we  
4 already replaced that; and then so there was other  
5 discussions; but by that point, again, the election  
6 was underway.

7 Q. Uh-huh.

8 A. And, you know, if we had more time and  
9 known earlier about these all these things, all the  
10 options would have been different and on the table.

11 Q. I think we agreed in your prior  
12 deposition. Voter confidence, confidence in the  
13 voting system is important.

14 A. We did.

15 Q. Okay. Dr. Halderman's findings through  
16 July 2021, vulnerabilities that were later validated  
17 by CISA in June of this year, is it your  
18 understanding that Dr. Halderman's concern is only  
19 whether those vulnerabilities are exploited; or do  
20 you also understand that part of his concern is that  
21 the presence of those vulnerabilities allows folks  
22 like the Sidney Powell group to undermine voter  
23 confidence?

24 MR. TYSON: And I'll object in terms of  
25 scope in terms of what Dr. Halderman's report

1 means.

2 But you can answer, if you know.

3 THE WITNESS: Okay. I'm sorry. Can you  
4 restate it. You guys threw me off. I -- I  
5 apologize.

6 Q. (By Mr. Cross) Sure. Sure.

7 Is it your understanding that Dr.  
8 Halderman's concern with vulnerabilities that he  
9 found with the Dominion software, which, again,  
10 validated by CISA, that his concern is only that  
11 they're exploited; or do you also understand that  
12 he's concerned that individuals like Sidney Powell  
13 and others who will spread misinformation will use  
14 those vulnerabilities, the presence, just the mere  
15 presence to undermine voter confidence?

16 MR. TYSON: Object to form and to scope.

17 THE WITNESS: I won't necessarily go to  
18 Mr. Halderman's mind-set; 'cause as I said  
19 before, I can't know what's in anybody's mind.  
20 However, your characterization is likely true  
21 and accurate; but I mean, it's going to be a  
22 personal opinion. It sort of lacks  
23 self-awareness in some ways that every system  
24 has vulnerabilities, and you have to mitigate  
25 with processes and procedures around every

1 system that exists.

2 So there's a level of vulnerability and a  
3 level of processing around it, and we've seen  
4 some of these things before, and there was one  
5 specific thing that was exploited by the Trump  
6 people in Antrim County where they -- A  
7 election director made a mistake or a series of  
8 five mistakes that led to incorrect outcomes  
9 being displayed, and that was then obviously  
10 exploited.

11 As we know, any claims need to be handled  
12 responsibly and -- Excuse me. Any claim can be  
13 handled responsibly.

14 So yes. I believe that's probably Mr.  
15 Halderman's view is that by showing these, he's  
16 heading off those things and trying to find ways  
17 to mitigate them; and like I said, version 5.17  
18 will go a long way towards doing many of those  
19 things, I believe.

20 So my overall point is that, yes. I  
21 believe he's correct, to answer your question,  
22 or that that's his mind-set.

23 But I also know that making the claims,  
24 depending on how you do it and the way you do it  
25 and the ways to achieve it responsibly and --

1 and this is going to -- Lawsuits in and of  
2 themselves are adversarial, obviously; and it  
3 becomes difficult in many ways sometimes to just  
4 accept at face value what things are said versus  
5 not.

6 And as you have a CISA process itself  
7 allows -- basically says we strip away  
8 everything around all the processes and  
9 procedures, and we're just going to look just at  
10 the cyber vulnerability itself or the potential  
11 cyber vulnerability itself. That is how the  
12 CISA process works for these reviews, which is a  
13 good thing, I think, and -- And allowing for  
14 proper cyber investigation to make these reports  
15 in such a way is a -- is not a bad thing.

16 Now I think sometimes it's not handled the  
17 best in the world, and I think that there could  
18 be improvements made to that federal system, but  
19 I think the EAC's -- needs to be responsible in  
20 these things, and they need to move a heck of a  
21 lot faster than they have historically on them.

22 But, again, this is part of running a  
23 responsible overall system, so there's a place  
24 for all these pieces and parts to be done; and  
25 Mr. Halderman's does have part of that as -- as

1 his rationale behind it. I absolutely believe  
2 that you agree with that or believe that.

3 Q. (By Mr. Cross) So you mentioned the CISA  
4 process sort of strips away or it doesn't look at the  
5 processes and procedures, things like physical  
6 safeguards that are in place. It's looking at the  
7 software itself and saying are there software  
8 vulnerabilities, right?

9 A. And hardware, I think, I mean --

10 Q. Right.

11 A. -- 'cause you have to be able to do those  
12 things. Right.

13 Q. But I mean, we --

14 Isn't it a fact that we now know that  
15 the -- these other processes and procedures,  
16 including the physical safeguards that you're relying  
17 on in Georgia, that they're not adequate?

18 Doesn't the Coffee County breach, which  
19 spanned eight days and involved -- I don't know --  
20 somewhere north of half a dozen people, that those  
21 safeguards just don't work?

22 A. Well, Mr. Cross --

23 MR. TYSON: I'll object to form and object  
24 to scope.

25 Go ahead.

1 THE WITNESS: Mr. Cross to that point,  
2 when you have bad actors, it doesn't matter what  
3 your system is. They -- They're all  
4 exploitable at that point, a hundred percent  
5 across-the-board, anything with a computer.

6 Even in -- in Dr. Halderman's report  
7 itself, he says you can do things to the  
8 scanners, which is part of your relief.

9 So basically, any -- All physical  
10 security is reliant upon human beings of good  
11 faith following their oath of office. I think  
12 part of the issue we have in all the stuff  
13 around elections is every person involved  
14 believes in their heart of hearts they are  
15 saving American democracy from the bad guys on  
16 the other side, and that's what they all believe  
17 across-the-board.

18 There are those of us who actually --  
19 actually have to run elections -- the county  
20 elections workers, the poll workers, the  
21 secretaries of state, the elections directors,  
22 the poll managers, the boards of elections that  
23 are stuck having to actually do things in the  
24 real world to protect the election.

25 And when you have people in that group who

1       violate the law and violate the rules, that's  
2       why we have criminal investigation right now;  
3       and it is wrong; and like I said, I think Misty  
4       Hampton now will act as a cautionary tale to  
5       those who will -- who think that maybe I can get  
6       around the system and prove that it's not doing  
7       what it supposed to be doing.

8       Q.       (By Mr. Cross) You keep talking about  
9       Misty Hampton. I mean, let's be clear. It wasn't  
10      just Miss Hampton. It was Eric Chaney. It was Cathy  
11      Latham. It was Ed Voyles. There were a number of  
12      folks that were part of this.

13      A.      And every single one of them believe  
14      they're saving American democracy. I mean, that's  
15      the problem motivation on this is it's okay to  
16      violate my oath, because I'm doing it for the right  
17      reason. It's okay to run to the press with things.  
18      I'm doing it for the right reason. It's just a  
19      because they believe in their hearts of hearts doing  
20      the right thing.

21              My point is us as election administrators  
22      are stuck dealing with the fallout from those things,  
23      and you can never -- if -- If laws always worked a  
24      hundred percent of the time, there'd be no murders.  
25      You know, there's --

1           You can put safeguards and people in place  
2     to try to hold them accountable, but it is -- You're  
3     always, at the end of the day, reliant upon that.

4           I mean, one of the easiest hacks in the  
5     world is if you have a person in the back room with  
6     cast absentee ballots in Georgia right now who can do  
7     an extra stray mark and overload it, and you would  
8     never have a record of it.

9           In our adjudication module, which Misty  
10    was showing off to her board, there's a record.  
11    There's a log file, the whole thing; and she went out  
12    of the bounds of the rules that was supposed to --

13           What she did wasn't really replicatable,  
14    and that's -- And that was the reason we had that  
15    statement from her, because we said you showed them  
16    this. Did you do this?

17           Well, no. Of course, not. I didn't do  
18    this. It's all the bad people.

19           If you look at that end of that videotape,  
20    this is okay if you're honest. But what you're if  
21    not?

22           I mean, the motivation of these people are  
23    what's at issue; and we're stuck as election  
24    administrators dealing with the real world of trying  
25    to run an election that, you know, 5 million people

1 in Georgia voted in; and this time, probably four and  
2 a half million; and claims and counterclaims and  
3 noise and booyah is what --

4 I step out of the cube, and we also get  
5 together and get really loud. It's booyah. I can't  
6 spell booyah for you. I'm sorry.

7 That causes these problems of undermining  
8 faith in the elections.

9 And there -- Like you said, there's still  
10 a percentage on the left and the right who, if you  
11 look at what the polling commission says, they don't  
12 believe these things, because of bad actors like in  
13 Coffee County or because of claims of the Trump  
14 people or because of claims of Russians flipping  
15 votes in 2016.

16 So all those things are true. It's the  
17 environment in which we have to operate in.

18 Q. You mentioned that every system has  
19 vulnerabilities. It -- it -- Wouldn't it be sound  
20 policy in light of that to use the system that has  
21 the least number of exploitable vulnerabilities and  
22 those that are the -- the hardest to exploit?

23 MR. TYSON: And I'll object to scope.

24 This has nothing to do with the events that  
25 occurred. This is theoretical. It's --

1 THE WITNESS: It's theoretical, and what  
2 we did is when we did --

3 Q. (By Mr. Cross) I'm not asking you a  
4 theoretical question.

5 A. You are.

6 Q. I'm asking you a practical, pragmatic --  
7 and I -- I'm --

8 Let me ask it in this way. The  
9 Secretary's Office is responsible for administering  
10 elections across the state with the support of  
11 counties; is that fair?

12 MR. TYSON: Objection.

13 THE WITNESS: Counties run elections, and  
14 the State provides support. That's the way I  
15 would probably categorize it.

16 Q. (By Mr. Cross) Okay. The Secretary's  
17 Office has some level of responsibility for election  
18 security, right?

19 A. Yes.

20 Q. And -- And given what we now know in  
21 Coffee County, why wouldn't you want to adopt a  
22 system that is as secure as it can be?

23 MR. TYSON: I'll again object to scope.  
24 That -- That has nothing to do with the  
25 unauthorized access. It's not what the --

1 MR. CROSS: Literally --

2 MR. TYSON: -- policies should be.

3 Q. (By Mr. Cross) I mean, he literally  
4 talked about it in the question, but --

5 A. Okay.

6 Q. -- go ahead.

7 A. To your point, we have a couple of  
8 constraints. Not constraints.

9 We can't just look at that and that alone.  
10 We had a law that was passed, HB 316, that said the  
11 State of Georgia will use a ballot-marking device  
12 system. We had four potential bidders. Three of  
13 them made it into the actual bid time, because one  
14 didn't make it into the portal in time.

15 Two of them made it to the next round of  
16 negotiation, and that was the incumbent provider,  
17 ES&S, and Dominion Voting Systems. They both were  
18 using BMDs per the law and per the bid; and they were  
19 evaluated on many, many things, including cost.  
20 There were the big difference in cost, a little  
21 difference in technicals.

22 So when we are running a system, it has to  
23 not just be the most cyber secure system there is.  
24 You would love to have it as your number one goal on  
25 some of these things, and we had -- It's rated very

1 highly with us. We had a lot of security questions  
2 in that bid, if you go back and look at it, which I'm  
3 sure you have.

4 We also have to worry about what -- how is  
5 this easy to train on? Is it easy to run? How does  
6 it function. Is it going to work properly? Again,  
7 can we train on it?

8 But going further back from your question  
9 since you asked a practical question, we have to take  
10 into account other things; and part of the reason the  
11 policy decision was made, in part, by the legislation  
12 for a BMD was there were issues going back on  
13 hand-marked paper ballots that existed that BMDs took  
14 care of -- overvotes potentially. Cuts down on  
15 undervotes, because it prompts you and -- and the  
16 places --

17 I know that the response has been, well,  
18 you can set the scanner to spit it back out to you if  
19 there's an -- an overvote or a problem. Go revote  
20 it.

21 But what we see in places like New York,  
22 in places where they do that -- And, second, it  
23 causes line problems; but, also, it, oddly, can  
24 discourage people from coming back to vote, because  
25 they're embarrassed. They look like, oh, like, I've

1 got to go back and do it again.

2 This is a problem. I mean, then their  
3 lines are back around. Somebody jumps back ahead.  
4 There's other things we have to look at and take into  
5 account when doing all these policies.

6 But the legislature passed a policy. The  
7 executive branch, under Secretary Raffensperger,  
8 executed that policy. We executed it going through a  
9 DOAS bid process; and then we worked with the SEB to  
10 put rules and processes around it, following best  
11 practices we learned from other states and from the  
12 vendor, in talking to counties.

13 And those rules and what we do around them  
14 are always changing and -- and working to improve to  
15 make them better; and working with the vendor, we've  
16 moved on to the next 5.17, which eliminates many of  
17 the things that Dr. Halderman talked about in his  
18 report.

19 We are moving on to doing a pilot of new  
20 Poll Pads to allow for -- for quicker transparency  
21 and easier loading of issue. It's always an evolving  
22 system.

23 You can't just look at that as the one  
24 thing. It is a plethora of items that we have to  
25 take into account, while following the law at the

1 same time, and trying to take into account voter  
2 ease; and I would put our system up against any  
3 system in the country in terms of voter experience  
4 and our record turnout. And our hand recount, hand  
5 re-tally showed the system did what it was supposed  
6 to do and that that's -- and I think that --

7 More than anything we did, going to paper  
8 was a godsend, I think was a godsend for us. Because  
9 having those BMD ballots that were easy to recount  
10 allowed us to eliminate a portion of the people  
11 making the claims that Dominion voting systems were  
12 flipping votes. It -- it -- It took care,  
13 especially at, to my mind, the electoral level, state  
14 house and state senate members who were watching One  
15 America news and listening to Lin Wood and Sidney  
16 Powell and, you know, those people who gave them  
17 information and supported them that the system itself  
18 did it.

19 They said okay. I get it. That  
20 particular one's crazy.

21 So I think the system we got is a very  
22 good system. It is a system that can move with the  
23 time and has the ability to update those items. I  
24 just wish the EAC would move faster in -- in their  
25 stuff.

1           Q.     Are -- Are you aware that Dr. Halderman  
2     found that in some respects, the new Dominion system  
3     is actually less secure than the -- the GEM system  
4     that it replaced?

5           A.     I read that part of the report, and the  
6     way I read it basically was it's an irony kind of  
7     thing.

8                     One of the most valuable people to hire,  
9     one of our most expensive people to hire in the cyber  
10    community right now is COBOL programmers, because  
11    there's so few of them left, because it is an old  
12    code.

13                    One of the issues around the GEM system,  
14    it was an old fricking code, and it was a lot  
15    clunkier to get through. More updated things --

16                    Here's an irony. We don't let these  
17    components get hooked to the Internet, obviously; and  
18    the way you update most new systems is through the  
19    Internet. We keep things moving and updating all the  
20    time, so this falls behind.

21                    But they've created the systems like in  
22    the android platform and stuff to make the system  
23    itself easier to work with, so you'd say it's -- I  
24    won't say it's less secure. I would say it's more  
25    modern, which makes it easier in many ways.

1 That's --

2 You want to stop for a second. We'll --

3 THE WITNESS: I saw you nodding.

4 THE VIDEOGRAPHER: Not me. I'm like you,  
5 man.

6 Q. (By Mr. Cross) Go ahead.

7 A. So I saw it being more -- The more modern  
8 systems in many ways are somewhat easier to get into,  
9 because there's certain policies and --

10 And way they built systems out, if you go  
11 into the some of the old job scripts, the SQL stuff  
12 is so ubiquitous. It generally can make those things  
13 easier to do, so you always have to be aware of those  
14 things when you're roll -- rolling out a system.

15 Q. But it's not just that this Dominion  
16 software is more modern. It has more vulnerabilities  
17 in its design, including that some of it is just  
18 off-the-shelf software. It's not -- It's not secure  
19 proprietary software in many respects, right?

20 A. Which --

21 MR. TYSON: And I'll object to form and  
22 scope.

23 THE WITNESS: And there's two ways of  
24 looking at proprietary software, usually when  
25 you have --

1           Q.       (By Mr. Cross) Well, hold on. Just  
2 answer my question. Do you disagree with what I just  
3 said?

4           A.       No. I don't disagree.

5           Q.       Oh, okay.

6           A.       I'm -- I'm -- I'm pointing out that  
7 there's more than just looking at that we have to  
8 take into account. The ability to update and change  
9 and make things easier becomes easier when you're  
10 using COTS, certified off-the-shelf.

11                   I mean, one of the systems we have right  
12 now is our voter registration system. I'm using this  
13 as an example to kind of show you the situation. It  
14 was a built-out system for Georgia, that Texas uses a  
15 similar version from our vendor Civics.

16                   One of the problems with proprietary  
17 software, which is a big problem, is the programmers  
18 who did it retire. They move on. You -- You have  
19 your escrow, which is supposed to always be updated.  
20 Some vendors don't always update their escrows, which  
21 makes it difficult if you want to go back and do some  
22 of those system changes.

23                   So we're moving to a Salesforce-based  
24 system built out on a more modern platform that will  
25 be continually updated, because there's advantages to

1 doing it that way. There are disadvantages  
2 potentially on that cybersecurity side. I get that,  
3 but that's why you have to put processes and policies  
4 in place to try to mitigate against them and try to  
5 use software development to attempt.

6 You're never going do stay fully ahead  
7 with every potential threat on the cyber side.  
8 It's -- It's physically impossible. You need --  
9 we -- we always -- We have to use computers to build  
10 these things to -- to do counting in modern American  
11 elections.

12 It would be impossible to do hand  
13 counting. I think everybody agrees. Hand counting  
14 is ineffective. It's going to be wrong, because  
15 human beings are much more fallible and flawed than  
16 machines are.

17 THE WITNESS: Can we stop for a second. I  
18 drank too much water. I apologize. Can we --  
19 Can I break out for a second. Run to the  
20 restroom. We're getting close to the time you  
21 wanted to break for lunch.

22 MR. CROSS: Can I ask you one quick  
23 question before we do that?

24 THE WITNESS: I think that's -- That's  
25 your go-to before I go the bathroom. Yes.

1           Q.       (By Mr. Cross) But do you agree that QR  
2 codes are not needed for anything you're describing?

3           MR. TYSON: And I'll object to scope.

4           THE WITNESS: I'm not following your  
5 question, sir.

6           Q.       (By Mr. Cross) The -- What you've just  
7 described in sort of your view or the Secretary  
8 Office's view on administering elections, balancing a  
9 variety of factors with election security, the QR  
10 codes that are on the ballots used in Georgia, those  
11 are not needed for anything you're describing, are  
12 they?

13           MR. TYSON: And, again, I'll object to  
14 scope. This has nothing to do with the breach  
15 or anything else.

16           THE WITNESS: But I'm -- Again, I'm not  
17 really following your question, because there  
18 has to be some coordinate down for the machine  
19 to know what to count, 'cause the machine,  
20 whether is a hand-marker ballot or a BMD ballot  
21 doesn't read the human readable text at all.  
22 It's reading a coordinate that then corresponds  
23 to that so --

24           Q.       (By Mr. Cross) I understand -- I  
25 understand that.

1           A.       Again, I'm not following your question  
2 then.

3           Q.       I understand the computer science  
4 argument. All I'm saying is the State uses QR codes.  
5 You understand the Dominion system can scan the human  
6 readable portion to tabulate ballots. You know that,  
7 right?

8           A.       No. It can't. 5.5 cannot. The only --  
9 The only system that exists that can scan -- doing  
10 OCR for those things is another vendor.

11          Q.       The Dominion system currently scans  
12 hand-marked paper ballots that come in from absentee,  
13 right?

14          A.       Correct.

15          Q.       Okay. So you understand this system can  
16 scan -- it does not have to -- It does not have to  
17 scan QR codes to tabulate ballots. You understand  
18 that, right?

19          A.       Yes. But my point is it doesn't -- it  
20 has -- it's not reading -- It's not scanning human  
21 readable text from the other thing. It's scanning a  
22 coordinate the QR code corresponds to.

23          Q.       I -- I get that. My question is a very  
24 simple question.

25                   None of what you just described in terms

1 of the factors of -- of having this particular  
2 system, none of that requires a QR code, as opposed  
3 to a ballot that does not have a QR code. We're  
4 agreed on that, right? That's just not needed.

5 A. I don't -- I'm not --

6 MR. TYSON: And I'll object.

7 THE WITNESS: -- agreeing on --

8 MR. TYSON: Oh.

9 THE WITNESS: -- this right now.

10 MR. TYSON: So sorry.

11 Again, I'll object to form and scope.

12 THE WITNESS: I'm not agreeing to that

13 necessarily, because that is the system that we  
14 use right now.

15 Q. (By Mr. Cross) No, no. I get the systems  
16 you use. But -- But that's just status quo. That's  
17 saying we need QR codes because we have QR code  
18 system.

19 I'm asking you a different question, which  
20 is: To achieve all of the objectives you've just  
21 described that the Secretary's Office considers, you  
22 do not need QR codes on a ballot.

23 A. We do right now.

24 MR. TYSON: I object to.

25 Q. (By Mr. Cross) Or --

1 MR. TYSON: -- form and scope, and I  
2 think --

3 THE WITNESS: Let me -- let me answer your  
4 question, David.

5 THE COURT REPORTER: Now let's --

6 MR. TYSON: Yeah. Sorry.

7 THE COURT REPORTER: -- have the full  
8 objection, please.

9 MR. TYSON: Objection as to form and  
10 scope. It has nothing to do with the breach or  
11 improper access.

12 THE WITNESS: Now allow me to answer your  
13 question.

14 The 5.5 Democracy Suite requires a QR code  
15 for a BMD ballot. The law requires we use a  
16 BMD.

17 Now I know that there is a potential to go  
18 to a full-face ballot in the later versions of  
19 these things. Now there's a whole slew of  
20 problems that come from that in terms of paper,  
21 in terms of two-page ballots. There's a -- And  
22 the logistics and cost that are attached to  
23 those as well, so, again, it's not just one  
24 thing to look at.

25 You're right. The -- The current system

1 can read a hand-marked paper ballot. The  
2 current system cannot produce a similar version  
3 five -- out of the 5.5, so that is a system that  
4 we have to use right now.

5 We were upgrading to one that could  
6 potentially do that; but there other factors  
7 like cost, training, auditing problems. We have  
8 to use two-page ballots.

9 We've had this discussion internally, so  
10 we've tried to look at it as reasonably as we  
11 can, and Dominion's --

12 Like we'd love to be able to do full-face  
13 ballot take some of this QR code argument away,  
14 I think; with right now, with the training we  
15 have, with the contract we have for the 14-cent  
16 ballots and not fully knowing how do you deal  
17 with auditing those things. What kind of  
18 batching? What kind of extra training do you  
19 have to do on that front to move to that?

20 If we move to 5.17, that will be something  
21 we could look at; but then we have to change out  
22 the printers, which is another cost; and you  
23 have to go to --

24 In a sense, many counties have different  
25 size ballots from 14 inch to 21 inch or 22 inch,

1           that we would then have to -- how do you -- How  
2           do you deal with that? What are the problems  
3           and -- and factors we have to -- if we're doing  
4           something like that?

5                     So, again, this is part of a plethora of  
6           items we have to look at.

7           Q.        (By Mr. Cross) But the current system  
8           already prints all of the human readable selections.  
9           It has the full-face ballot there. It just also has  
10          a QR code at the top.

11          A.        That is not correct, sir.

12          Q.        So how is that incorrect?

13          A.        Okay. Let me walk you through how this  
14          works on this front. And I'm not trying to talk  
15          down. I'm just trying to say --

16          Q.        Okay. Let me -- Can I just ask a quick  
17          question first.

18          A.        Yeah.

19                     May I please go to the bathroom.

20          Q.        Well, no. Are you saying -- Are you  
21          saying that when the ballot prints, it does not have  
22          all of the human readable selections?

23          A.        No. I'm not saying that.

24          Q.        Okay.

25          A.        What I'm saying is it is not capable of

1 reading that. Okay.

2 Q. But no. I get that. I get that but --

3 A. Well, it sounds like you're saying it can  
4 read a BMD ballot that way. If -- Or if it's a  
5 hand-marked ballot, it can be read that way. It  
6 can't.

7 MR. TYSON: Hey, David, when he's using  
8 the term full faced --

9 MR. CROSS: No. I understand what he  
10 means by that.

11 MR. TYSON: Okay.

12 MR. CROSS: I understood what he means by  
13 that.

14 MR. TYSON: Yeah.

15 Q. (By Mr. Cross) But you -- I thought you  
16 were saying that -- that part of the challenge if you  
17 were to go to a full-face ballot, meaning it does not  
18 have --

19 A. Uh-huh.

20 Q. -- a QR code is you have to deal with,  
21 well, they're printed at different sizes -- 14 inch  
22 in one --

23 A. Uh-huh.

24 Q. -- different in other.

25 But my point is that the difference

1 between that full-face ballot in terms of the human  
2 readable selections that are on that ballot, aren't  
3 those the same? Doesn't the current ballot print the  
4 human-readable selections that the voters have made?

5 A. Frankly, David, I am so lost in your  
6 question, right. I'm not trying to be pedantic.  
7 I -- I don't -- I'm just not following it.

8 Q. Why don't you go to the bathroom?

9 A. Okay.

10 MR. TYSON: Yeah.

11 Q. (By Mr. Cross) 'Cause I think we've lost  
12 each other.

13 A. Yeah.

14 THE VIDEOGRAPHER: We're going off the  
15 record at 12:35.

16 (Recess from 12:35 p.m. to 1:19 p.m.)

17 THE VIDEOGRAPHER: We are on the record at  
18 1:19.

19 Q. (By Mr. Cross) So, Mr. Sterling, I  
20 understand you got some additional information on the  
21 recent case number that was open in September and  
22 what that entails.

23 A. There was two different case numbers.

24 Q. Oh.

25 A. One was, in fact, Spalding County. The

1 other at the request of the State Election Board  
2 Chairman and the State Election Board was to create a  
3 new case number to basically put all the stuff having  
4 to do with this current Coffee County investigation  
5 into that. It's been no new documentation on the  
6 inside. It's just basically a number for tracking  
7 purposes.

8 Q. What's the case number for Spalding; do  
9 you know?

10 A. Spalding is 2022-219, and it was open on  
11 9-21-22; and Coffee is 2022-207, opened on 9-7 --

12 Q. Thank you.

13 A. -- 2022.

14 Q. Okay. Do you know what the reason was  
15 to -- to create a new case for Coffee County, rather  
16 than just continuing with what you were doing?

17 A. It was the request of the State Election  
18 Board Chairman.

19 Q. But do you have any insight as to what led  
20 to that request?

21 A. He is a federal judge; and he had ways he  
22 wanted to do it, so our form of regulation --

23 Q. Yeah.

24 A. -- he chose to do that.

25 Q. Okay. Okay. And then I think the other

1 question we had earlier was if you had any insight  
2 into why the ICC was replaced in Coffee County in  
3 June of 2021.

4 A. It's been explained to me the password on  
5 it was also not -- They couldn't into that one  
6 either, so they had to change that one out as well.

7 Q. And who said that?

8 A. Michael Barnes.

9 Q. Is he aware that James Barnes testified  
10 that the ICC was fully operational and there was no  
11 password problem?

12 A. No.

13 Well, I -- I have no idea what Michael  
14 knows.

15 Q. Okay. So you -- You spoke to Michael at  
16 the break --

17 A. Yeah.

18 Q. -- Mr. Barnes?

19 A. Actually, I didn't speak to Michael.  
20 Through our attorneys --

21 Q. Okay.

22 A. -- he got back --

23 Q. Okay.

24 A. -- to me.

25 Q. So okay. But Mr. Barnes -- Michael

1 Barnes's understanding is that the ICC password also  
2 did not work?

3 A. Correct.

4 Q. And do you know what the basis of that  
5 understanding is?

6 A. I'm assuming Chris Bellew, who is down on  
7 site, informed him of that.

8 Q. Yeah. And I don't want you to assume.  
9 You -- You just don't know?

10 A. I don't know.

11 Q. Okay. That's fair.

12 A. But it's a good supposition.

13 Q. Okay. Well, maybe. I mean, Mr. Barnes  
14 seemed confident that the ICC password was not a  
15 problem.

16 A. He was also confident that the office  
17 hadn't contacted him, when, in fact, we know they  
18 had. That's, again, it's a question of time more  
19 than anything --

20 Q. Uh-huh.

21 A. -- I think.

22 Q. Okay. The circumstance that had come to  
23 light with the unauthorized access to the State's  
24 voting system in Coffee County, did that lead to any  
25 discussions within the office on whether to -- to use

1 emergency hand-marked paper ballots for elections?

2 A. No.

3 Q. Are you aware of any election security  
4 expert who has examined any component of the State's  
5 voting system since the Coffee County breach came to  
6 light?

7 A. I'm going to assume Mr. Persinger's had  
8 the -- one part of that.

9 Since then, no. We haven't had -- brought  
10 anybody else in yet. In fact, we're discussing  
11 trying to go through our procurement process to get a  
12 contract in place to allow for that for the long  
13 term.

14 Q. But Mr. Persinger, I assume, has forensic  
15 expertise. But he's not an election security expert,  
16 right?

17 A. Well, this becomes -- This comes into the  
18 subjective idea of what an election security expert  
19 is.

20 Q. Well, is he -- Are you aware of any  
21 proceeding in which he has offered opinions as an  
22 expert on election security?

23 A. I'm not. No.

24 Q. Are you aware of any work by Mr. Persinger  
25 to examine voting equipment prior to the work he's

1 doing now?

2 A. Not that I'm aware of. No.

3 Q. Are you aware --

4 Well, back up. You know Ben Adida?

5 A. Yes. Uh-huh.

6 Q. Ben Adida is an expert who testified for  
7 the State in this case; do you know that?

8 A. He testified for us?

9 Q. He did. He testified at a hearing in  
10 September of 2020.

11 A. Okay. Then yeah. I'd forgotten that that  
12 was the case.

13 Q. Yeah.

14 MR. BROWN: It was Zoom.

15 THE WITNESS: Okay.

16 MR. BROWN: Wasn't that by Zoom?

17 MR. CROSS: It was. I think everybody was  
18 by Zoom.

19 THE WITNESS: Okay.

20 Q. (By Mr. Cross) And Ben Adida, does he own  
21 or he runs VotingWorks?

22 A. Something. I'm not sure how it works, but  
23 I think he founded it, and it's like a nonprofit  
24 thing so --

25 Q. And VotingWorks is a company that the

1 States contracts with for audit purposes?

2 A. Correct.

3 Q. Maybe among others.

4 Sorry. You say correct?

5 A. They are. There are none among others,  
6 but they are. They are the ones we can contract  
7 with.

8 Q. Okay. Are you aware that Ben Adida always  
9 advises his clients to adopt hand-marked paper  
10 ballots, plus, one BMD for disability purposes?

11 MR. TYSON: And I'll object to form and  
12 scope.

13 THE WITNESS: I am not aware of that, but  
14 that wouldn't -- I wouldn't find that  
15 surprising from Ben. No.

16 Q. (By Mr. Cross) Why?

17 A. Because I believe that's his understanding  
18 and belief; and of course, in Georgia, we have a law  
19 that says we have to have BMDs for everything.

20 Q. All right. Let me hand you --

21 MR. CROSS: Are we at nine?

22 THE WITNESS: Nine, I think.

23 MR. CROSS: Is it nine?

24 THE VIDEOGRAPHER: Yes.

25 Q. (By Mr. Cross) Okay. Let me hand you

1 Exhibit 9. This is Tab 50, five zero.

2 (Exhibit 9 was marked for identification.)

3 (Discussion ensued off the record.)

4 Q. (By Mr. Cross) All right. So Exhibit 50,  
5 do you see is an e-mail, from Ryan Germany, to Steven  
6 Ellis, on April 1st of 2022?

7 A. Yes.

8 Q. And if you come to the start of the  
9 e-mail --

10 A. Oh, you mean like the first e-mail in  
11 the --

12 Q. Yes.

13 A. -- sequence? Okay.

14 Q. Yeah. Yeah. So go in chronological order  
15 from earliest in time.

16 A. Uh-huh.

17 Q. Bottom of the second page, you've got an  
18 e-mail from Rachel Roberts, to --

19 Is it Pratik Patel?

20 A. Pratik --

21 Q. Pratik --

22 A. Yes.

23 Q. -- P-R-A-T-I-K, Patel.

24 A. Correct. Uh-huh.

25 Q. And Miss Roberts in -- at least in April

1 of this year, was the Elections Director in Coffee  
2 County, right?

3 A. I believe that's correct. Yes.

4 Q. And Mr. Patel, does he work in CES?

5 A. He does work at CES. He's one of our --  
6 one, two -- three main ballot builders before. I  
7 mean, that's right, I guess.

8 Q. One of the ballot builders?

9 A. Ballot builders and CES employees, yes.

10 Q. I see. So and I was going to ask you.  
11 What is Mr. Patel's role or responsibilities in CES?

12 A. He is a ballot builder.

13 Q. Okay. But Mr. Patel was also involved in  
14 replacing the EMS server --

15 A. Uh-huh.

16 Q. -- and ICC in June of last year, right?

17 A. Part of the role of CES is they kind of  
18 become our in-house experts on the equipment and  
19 ballot building and all -- all the processes around  
20 it, so this would fall under the scope of that. He  
21 would do that.

22 It's just a internal term of art. When  
23 you work at CES, you're a ballot builder basically.  
24 That's how we refer to them unless you're in the  
25 warehouse. You're a warehouse guy kind of thing.

1 Q. How many ballot builders are there?

2 A. If memory serves, there's four that are  
3 State employees and two that are contract employees  
4 right now.

5 Q. Contract employees contracted by the  
6 State?

7 A. Correct. And these contracts are direct,  
8 are through a State contract. They hired -- it's  
9 a -- it's a --

10 There are two state contracts for  
11 temporary employees specifically. A third, if you  
12 include IT employees; and they are paid through one  
13 of those three. I can't remember which one it is. I  
14 would I want to say it's -- It's either CAI or focus  
15 or corporate. But, again, they're just --

16 It's enough to say modeling used to -- for  
17 accounting to pay for contract employees, as opposed  
18 to making them full employees, because full employees  
19 are very expensive because there's a 63 percent  
20 burden on their -- For every dollar you spend on  
21 their salary, it's 63 cents additional to employ  
22 them.

23 Q. Okay. Do they do the ballot building  
24 physically on site at the Secretary's Office or where  
25 do they do it?

1           A.       They do it at the Center for Elections  
2 office, which is near the Braves stadium up and off  
3 Interstate 120.

4           Q.       So here Miss Roberts for Coffee County  
5 reaches out in April of this year and says can you  
6 please send me a letter on your letterhead stating  
7 that your server is in your possession. Please  
8 include why and when it was changed out. Do you see  
9 that?

10          A.       Yes.

11          Q.       Do you know why Miss Roberts is reaching  
12 out to the Secretary's Office for that letter on  
13 April 1st of this year?

14          A.       I vaguely recall. I -- I -- I don't want  
15 to speculate. I think it was something around their  
16 elections board wanted to understand why.

17                   And, also, they say their server.  
18 Technically, they're all the State's servers; but  
19 they are held and used by those counties. I just  
20 want to make that clarification.

21                   I believe that's what it was; but, again,  
22 this was April of '22. And, again, it was no big  
23 deal to say the password didn't work. We changed it  
24 out. Normal processes.

25          Q.       When you say that the -- the -- the State

1 servers, but they're held and used by the counties,  
2 what does that mean?

3 A. The State retains ownership of all  
4 equipment unless, as in some counties, some large  
5 counties buy their own equipment. They -- They own  
6 that equipment, but we still have to have -- go  
7 through state acceptance and certification on those  
8 pieces of equipment.

9 Q. So the EMS server that was taken and the  
10 ICC in the summer of last year from Coffee County,  
11 that is and has always been owned by the Secretary's  
12 Office or by the State?

13 A. Once it was purchased and accepted, yes.

14 Q. Okay. All right. Is that true for the  
15 new equipment? The State owns that, too?

16 A. Correct. All the equipment, not just the  
17 ICC and the -- Everything that we changed out, the  
18 States retains ownership of those items.

19 Q. Okay. Do you know why this -- the Coffee  
20 County office did not already have any documentation  
21 on the EMS server and the ICC being replaced in June  
22 of 2021?

23 A. I don't know that they didn't, or they may  
24 be not be able to find it since they went through  
25 three elections directors -- I guess two elections --

1 Oh, an initial director election passed this time, so  
2 I don't know what they did or didn't have, but they  
3 probably wanted to have this as a belt and  
4 suspenders.

5 Again, I'm making a supposition, so I  
6 apologize, but I --

7 MR. TYSON: Yeah. And don't -- Don't  
8 guess.

9 Q. (By Mr. Cross) Yeah. If you don't -- if  
10 you don't know --

11 A. Well, I -- I couldn't suppose for certain.

12 Q. Sure. Okay. Well, do you know why the  
13 Secretary's Office does not have any documentation  
14 regarding replacing that server and the ICC other  
15 than the logic and accuracy report that we received?

16 A. And the logic and accuracy report, that's  
17 all you really need to know. It's changed out. It's  
18 a new piece of equipment there with the L&A on it.  
19 It was put there. We have the time. We have the  
20 date.

21 Q. But the chain of custody of voting  
22 equipment, maintaining that chain of custody is  
23 critically important, right?

24 A. Yes.

25 Q. And so does the State not have any

1 policies or practices to require documenting when it  
2 replaces voting equipment in the county other than  
3 just an L&A report?

4 A. I don't know off the top of my head on  
5 that one, quite honestly. I mean, I did  
6 demonstration for voting equipment for a media the  
7 other day. We had to sign all the paperwork to take  
8 it from one building to another.

9 So, I mean, I know we do have paperwork on  
10 those fronts; and I don't know if it would be the  
11 same as it would for a complete switch out or not. I  
12 just don't know off the top of my head.

13 Q. If you wanted to know, who would you ask?

14 A. I would ask Michael Barnes.

15 MR. TYSON: You want us to check on that  
16 at a break?

17 Q. (By Mr. Cross) Sure.

18 MR. TYSON: Okay.

19 MR. CROSS: Thank you.

20 Q. (By Mr. Cross) And then if you come up to  
21 the most recent e-mail where we started, Mr. --

22 A. The first page on --

23 Q. Yes.

24 A. The first page. Okay.

25 Q. -- Mr. Germany's e-mail, to Steven Ellis,

1 dealing with this request from the Coffee County  
2 election director.

3 Mr. Germany writes, "Yes. I just left a  
4 message with Coffee County's attorney. Let's work  
5 through her."

6 Do you see that?

7 A. Yes, sir.

8 Q. Do you have any insight into why the  
9 Secretary's Office wanted to work through the Coffee  
10 County's Attorney just on providing documentation  
11 that's requested by the County with respect to  
12 replacing the server?

13 A. I think because there was -- At this  
14 point, we were in an investigatory posture on that --  
15 on that front is my best guess, and we were --

16 Generally speaking, when it comes to these  
17 kind of investigations, we like working with the  
18 county attorney's offices so that they're kind of  
19 there, 'cause they're going to be defending and  
20 trying to understand, do this stuff. It was like  
21 when the investigators came down. The county  
22 attorney was there with Misty at that time. That's  
23 just a normal kind of practice.

24 Q. And for Coffee County, when you say the  
25 county attorney, it's actually an outside law firm

1       that fills that role at Hall Booth?

2               MR. TYSON: And I'll object to scope.

3               You can answer if you know.

4               THE WITNESS: I believe that's correct.

5               Yes.

6               Q.       (By Mr. Cross) For example, it was Tony  
7       Rowell that was in the meeting with Misty Hampton  
8       December of 2020. Do you remember that?

9               A.       Yes.

10              Q.       And then it -- Here, it's a reference to  
11       her.

12              Do you know if Mr. Germany reached out to  
13       Jennifer Herzog?

14              A.       I believed that -- Prompting my memory --

15              Q.       Okay.

16              A.       -- that is name of the person whose  
17       talking to. Yes.

18              Q.       Has there been any consideration or  
19       investigation either by or at the direction of the  
20       Secretary's Office into whether any of the Coffee  
21       County attorneys were aware of the -- the breach in  
22       January of 2021 shortly after or -- or at the time  
23       that it happened?

24              MR. TYSON: I'll object to scope.

25              If -- If you know, and don't disclose

1           about the investigation.

2           THE WITNESS: I couldn't speak to that.

3           Q.       (By Mr. Cross) 'Cause -- 'Cause you  
4       don't know?

5           A.       I don't.

6           Q.       Okay.

7           A.       Yeah. Sorry. Yeah.

8           Q.       I just want to make sure it wasn't -- it  
9       wasn't like a privilege thing. You just don't know?

10          A.       I just don't know.

11          Q.       Okay. If -- If you wanted to know, who  
12       would you ask?

13          A.       One of three people, either Ryan Germany,  
14       Steven Ellis, or Sara Koth.

15          MR. TYSON: Or the GBI?

16          THE WITNESS: Or the GBI. But at this --  
17       at this point, it would have been an earlier  
18       period of time. This was well before the GBI  
19       was involved.

20          Q.       (By Mr. Cross) Right. Okay. So we  
21       talked about the password change that was changed on  
22       December 14 and -- And that was a directive from the  
23       Secretary's Office.

24                 Are -- Are you aware that James Barnes  
25       testified that his understanding was that

1 county-level officials actually don't have  
2 administrative rights to change a password?

3 A. I'm aware that was his testimony, but I  
4 believe that is incorrect.

5 Q. Okay. So the password change that  
6 occurred on December 14, is it the Secretary's Office  
7 understanding that Misty Hampton did that, or they --  
8 they don't know for sure who did it?

9 A. We don't know. We only know is that  
10 someone in that office who had the existing password  
11 went on and changed that password, so we can't speak  
12 if it was Misty, her daughter, or some other  
13 employee.

14 Q. Since the Secretary's Office thought that  
15 the password should be changed after the YouTube  
16 video came, why wasn't it the practice of the  
17 Secretary's Office to make that change itself or to  
18 oversee that change with whoever would handle that?

19 A. I couldn't speak to that specifically.  
20 Generally speaking, the board of elections  
21 directors. Counties run elections and --

22 Q. All right.

23 A. And, generally speaking, the Secretary of  
24 State's Office says to do something, they generally  
25 do it, because they don't want to go before the State

1 Election Board for having done something wrong.

2 Q. Does the -- Since the Secretary's Office  
3 owns the equipment in Coffee County in particular, is  
4 the -- is -- is it supposed to have all of the  
5 passwords to that equipment so that it has its own  
6 access?

7 A. Generally speaking, yes.

8 Q. And is it my understanding that when the  
9 password was changed on December 14 at the  
10 Secretary's direction, is it your understanding  
11 whatever that password became was ever shared with  
12 your office?

13 A. That is my understanding. Yes.

14 Q. And what is that based on?

15 A. That when James Barnes called Michael  
16 Barnes, no relation, to -- to see if you have a  
17 different password than what I have sitting here, he  
18 had the same one; and there has been -- There's no  
19 indication that we ever got the information that it  
20 was changed.

21 Q. Do you know whether the password that  
22 James Barnes was trying to use and that Michael  
23 Barnes had -- was that what the Secretary's Office  
24 believed to be the EMS server password prior to  
25 December 14th?

1 A. That was my understanding.

2 Q. Is that from Mr. Barnes?

3 A. Well, from Michael, yes.

4 Q. From Michael, yeah.

5 And so when --

6 THE WITNESS: Hold on.

7 MR. CROSS: Sorry.

8 THE COURT REPORTER: Okay.

9 Q. (By Mr. Cross) And so when the  
10 Secretary's Office took possession of the EMS  
11 server -- took possession of the EMS server in June  
12 of 2021, the password that Mr. -- that Michael Barnes  
13 had did not work?

14 A. Correct.

15 Q. And at some point this year, the  
16 Secretary's Office got access to that server through  
17 Mr. Persinger's work?

18 A. I wouldn't say the Secretary's Office got  
19 access to it. Mr. Persinger got access to it.

20 Q. But he's working at the direction of the  
21 Secretary's Office?

22 A. Yes. Well, through the attorney. I don't  
23 know how to define the relationship, but through the  
24 attorneys' offices, yes.

25 Q. And I know we talked about this before.

1           But just to get more specific for you, do  
2   I understand correctly, you were not aware that Mr.  
3   Persinger installed a software program on the  
4   original EMS server on the hard drive called  
5   resetpassword.exe, an executable file?

6           MR. TYSON: And I'll object to form.

7           THE WITNESS: No.

8           Q.     (By Mr. Cross) The -- I guess our  
9   follow-up if you don't know. But let me ask -- let  
10  me ask the question, and you can tell me if you just  
11  don't know.

12                  Do you know why when CES came into the  
13  Coffee County office in -- in May of 20 -- or  
14  sorry -- I think it was June of --

15                  Sometime in the May-June time period of

16

17

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So that was my understanding of it.

3

MR. CROSS: All right. Is this ten, I

4

think?

5

THE WITNESS: Yes.

6

(Exhibit 10 was marked for

7

identification.)

8

Q. (By Mr. Cross) All right. Let me hand

9

you what's been marked as Exhibit 10. It's Tab 59.

10

So Exhibit 10 is an e-mail that you sent

11

to -- to outside counsel including -- and, plus, Ryan

12

Germany and Steven Ellis on August 1st of 2022.

13

Do you see that?

14

A. Are we talking beginning back here, or

15

where are you on?

16

Q. The -- the -- The most recent e-mail at

17

the top of the first page.

18

A. Yeah. It was basically take the

19

information I'd gotten from -- I don't remember

20

exactly what it was, but I --

21

Yeah. It was from Nicole. That what's

22

she told me. Yeah.

23

Q. Okay. So come down to the second-to-last

24

page. It ends in 91.

25

A. Okay.

1 Q. And yeah. You'll see there's a --

2 Excuse me. Sorry.

3 There's an e-mail from the Ichter Davis  
4 firm producing, you know, what's referred to as the  
5 complete recording of the phone call with Scott Hall,  
6 and that's on March 2nd, 2022.

7 Do you see that?

8 A. Uh-huh.

9 Q. Yes?

10 Sorry. You have to say yes or no for her.

11 A. So yes. Sorry.

12 Q. That's okay. That's okay.

13 Then we come up. If you come to the page  
14 ending in 89 --

15 A. Yes, sir.

16 Q. -- the e-mails in between are redacted.  
17 You get to an e-mail from Mr. Germany, to James  
18 Calloway, Blake Evans, and yourself on March 14 of  
19 2022.

20 Do you see that?

21 A. Yes.

22 Q. Who is James Callaway?

23 A. At the time, he was our deputy chief of  
24 investigations.

25 Q. Is he no longer there?

1 A. He's passed away.

2 Q. Okay. I'm sorry.

3 A. He -- He left first, and then he passed  
4 away suddenly.

5 Q. Okay.

6 A. He was very young. He was only 47. He  
7 had a heart attack.

8 Q. Jesus. That's terrible. Okay. Oh, I'll  
9 need to be healthier.

10 Okay. So and in this e-mail, Mr. Germany  
11 writes, "... can you download the file below and pen  
12 an investigation into below."

13 Do you see that?

14 A. Yes.

15 Q. And then Mr. Callaway responds, "I got it,  
16 Ryan. I'm clear."

17 Do you see that?

18 A. Yes.

19 Q. And then we come up to -- The most recent  
20 e-mail is one that you're sending where you're  
21 conveying information from Nicole at Dominion.

22 Do you see that?

23 A. Yes.

24 Q. Who was Nicole?

25 A. Nicole Nollette who is their vice

1 president of operations.

2 Q. How do you spell her last name?

3 A. I believe N-O-L-L-E-T-T-E.

4 Q. And so when you're conveying this, is this  
5 the text like from an e-mail or a text message or  
6 something?

7 A. Yes.

8 Q. Okay. Text message or e-mail?

9 A. I don't recall.

10 Q. Okay. So she says, Gabe, you are right.

11 April 11th I was up there. When I was at CES, I had  
12 to go to Best Buy. I just remembered this. I looked  
13 up my account, and the purchase was April 11.

14 A. Yes.

15 Q. And then you explain below she was working  
16 to gain access to the server that had the password  
17 change, right?

18 A. Yes.

19 Q. And that's the Coffee County server we've  
20 been talking about?

21 A. Correct.

22 Q. What led the Secretary's Office to decide  
23 to bring Dominion in, in the April timeframe of this  
24 year to try to get access to that server?

25 A. Well, we actually made the decision in

1 March; but they already had a previously scheduled  
2 trip, so it didn't seem logical to make them do an  
3 additional trip down; and it was basically it's their  
4 server. They should be able to know how to get into  
5 it through a -- if the password's been changed.

6 And they thought they might be able to.  
7 They had a couple ways they were thinking about doing  
8 it, and their engineers were working on it, so  
9 that's -- It seemed a logical first step of doing  
10 what we're trying to do, which was to figure out if  
11 there had been any -- anything untoward on the  
12 machine, was to go to them first.

13 Q. Sorry.

14 But was it the -- The recording that you  
15 received from Mr. Hall or the recording of Mr. Hall,  
16 it -- it -- was that the impetus to say, okay, let's  
17 go look at this server that we've had for a while?

18 A. We had had some discussions about it, so  
19 let's listen to the whole thing. As I said earlier,  
20 I wasn't sure of the timeframe. I think it was post  
21 getting the full thing or free.

22 We -- We already decided we've got to  
23 figure out how we're going to do this, and I couldn't  
24 tell you when we originally called either Tom Feehan  
25 or Nicole Nollette to say, hey, we need to get into

1 the server. How do we do that.

2 So it was around -- They're all  
3 contemporary to one another in that timeframe.

4 Q. Did anybody come with Miss Nollette on  
5 April 11th from Dominion?

6 A. Not that I recall, but I -- I may not be  
7 aware.

8 Q. Okay.

9 A. I know that she was talking to people  
10 remotely in the Denver office about this from CES,  
11 'cause we had discussions about that.

12 Q. So is it your understanding that she's the  
13 one who came up, and it was -- She's the one who  
14 tried to get access to the server?

15 A. And to a point where she'd gone to Best  
16 Buy and said, hey, get this and see if this can help  
17 you do that kind of thing. That -- That was where  
18 that came down from because we had an initial  
19 discussion.

20 She -- In her brain, she thought it was  
21 later that she'd come down in April; but I said no.  
22 I'm pretty sure it was around this time.

23 And she went back and checked, and that's  
24 how -- That was the impetus behind this particular  
25 discussion on the e-mail.

1 Q. Do you know what it is she purchased from  
2 Best Buy to try to help with that?

3 A. I don't.

4 Q. If you wanted to know that, who would you  
5 ask?

6 A. Nicole.

7 Q. But whatever she bought, fair to say it  
8 didn't work?

9 A. Correct.

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1                   So I don't know if that was stated or not.  
2                   It was not stated to me.

3                   Q.     Mr. Barnes testified that --

4                   A.     Michael or James?   Sorry.

5                   Q.     Yes.   Thank you.   That's a good  
6                   correction.

7                   James Barnes testified that when the  
8                   Secretary's Office swapped out the -- the EMS server  
9                   and the ICC in June of last year, he said it was Mr.  
10                  Patel and someone named Chris.

11                  Was that Chris Bellew?

12                  A.     Chris Bellew.   Correct.   And that's  
13                  spelled B-E-L-E-W (sic).

14                  Q.     Is it two L's?

15                  A.     I think it's just one.

16                  Q.     Oh, okay.

17                  A.     I could be wrong, but I'm pretty sure it's  
18                  just one.

19                  Q.     Okay.   And just so I understand, your  
20                  knowledge is that the only documentation that exists  
21                  within the Secretary's Office about replacing the EMS  
22                  server and the ICC is that L&A testing report that we  
23                  received?

24                  A.     As I sit here right here, yes.   We're  
25                  obviously going to check the next break.

1 Q. When the State opens an investigation and  
2 creates what's called a case sheet, right?

3 A. It's my understanding. Yes.

4 Q. Do you know whether there was a case sheet  
5 created for the original 250 investigation in Coffee  
6 County?

7 A. My assumption is that if there was a case  
8 that was open on 250, there would have been an  
9 initial investigatory case sheet; and then I think it  
10 would have been part of the -- what was presented to  
11 the SEB.

12 Q. Have you ever seen one?

13 A. I -- I've seen so many of these now.

14 Q. Okay.

15 A. They kind of run together. I believe I  
16 saw the -- 'Cause I've seen there's case logs.  
17 There's investigatory logs, and the case sheet  
18 specifically, I see the end product, which is the SEB  
19 report of the investigation. I've seen the download  
20 or the screen capture from our SharePoint system,  
21 which has these on there.

22 I don't know if I for sure have seen the  
23 initial, very first case sheet from the SharePoint  
24 drive of this particular case or not. I may have,  
25 but I can't recall specifically.

1 Q. Okay.

2 MR. TYSON: David, are you talking about  
3 the summary of investigation when you say case  
4 sheet, or is it -- What are you referring to in  
5 case sheet?

6 MR. CROSS: No. My understanding is --  
7 And I thought Mr. Sterling was saying the same.  
8 But when an investigation's opened, there's a  
9 document called a case sheet that's created at  
10 that time.

11 MR. TYSON: Okay.

12 THE WITNESS: I don't know if it's like  
13 we've opened this file. The case sheet's there.  
14 I think it's a first step --

15 Q. (By Mr. Cross) Yeah.

16 A. -- 'cause there's -- there's a SharePoint  
17 system where we centrally keep all the documentation.

18 Q. Right.

19 A. But I don't think the SharePoint system  
20 itself creates the case sheet. The case sheet's just  
21 sort of there. It's like here's your starting point  
22 for your notes and everything else that you do.

23 MR. CROSS: Okay. We -- We have not seen  
24 a case sheet for the --

25 MR. TYSON: Yeah.

1 MR. CROSS: -- 250 investigation, so we  
2 would ask for that, if it exists.

3 MR. TYSON: Okay. I -- I don't think it  
4 exists.

5 THE WITNESS: I don't think it exists that  
6 way. It's in --

7 MR. TYSON: Right. I think it's --

8 MR. CROSS: Well, let's look at --

9 All right. So let's --

10 MR. TYSON: Okay.

11 Q. (By Mr. Cross) Maybe WhatsApp's right.

12 A. Okay.

13 Q. Let me hand you --

14 MR. CROSS: Is it 11, I think it is?

15 THE VIDEOGRAPHER: Yes.

16 (Exhibit 11 was marked for  
17 identification.)

18 Q. (By Mr. Cross) All right. Exhibit 11.  
19 This is Tab 107.

20 So Exhibit 11, the most recent is an  
21 e-mail from Ryan Germany to folks at the Secretary's  
22 Office on April 25th of 2022.

23 Do you see that, Mr. Sterling?

24 A. Yes.

25 Q. Okay. Come to the start of it. Go to the

1 third page ending in 50.

2 A. Okay.

3 Q. And if you look at, actually, the bottom  
4 of the second page, you'll see the whole e-mail.

5 Do you see this starts with an e-mail from  
6 a reporter named Kate Brumback at the AP?

7 A. Yes, sir.

8 Q. And so she reaches out through Open  
9 Records on April 25th of 2022, and she says I'm  
10 seeking any documents related to an investigation  
11 into the handling of the EMS server in Coffee County  
12 that was opened between February 24 of '22 -- 2022  
13 and the present.

14 You see that?

15 A. Yes, sir.

16 Q. And then Open Records responds to her they  
17 can't release any information because it's under  
18 investigation. They say you previously asked for a  
19 cover sheet, and we sent that one we are using for  
20 the investigation.

21 Do you see that?

22 A. Yes, sir.

23 Q. Do you know what they sent?

24 A. Looking at this, I couldn't say for  
25 certain.

1 Q. Okay.

2 MR. TYSON: David, we could go on a break.  
3 Let me see if I can find that, 'cause I have not  
4 seen that document.

5 MR. CROSS: Okay.

6 MR. TYSON: So let us see if we can find  
7 it.

8 MR. CROSS: Sure.

9 MR. TYSON: If there's something separate.  
10 It may just be the SharePoint print.

11 MR. CROSS: Okay.

12 MR. TYSON: I don't know what it is, so  
13 let me find out what that is, and we --

14 MR. CROSS: That's fine.

15 MR. TYSON: And we're happy to get it to  
16 you, obviously.

17 Q. (By Mr. Cross) Okay. And then if you  
18 continue on in this thread, Mr. Sterling, you see  
19 that Miss Brumback writes back. She gives some more  
20 information about what she's looking for.

21 Do you see that?

22 The bottom of the first page.

23 A. Oh, yeah. I'm reading -- I'm reading it  
24 now.

25 Q. Yeah. And then Open Records forwards that

1 on to Steven Ellis, Ryan Germany, and Paul Kokenes,  
2 Kokenes?

3 A. Kokenes. Yeah. That's Greek.

4 Q. And who is the Paul Kokenes?

5 A. He is a employee inside the elections  
6 division, sort of -- He's our data guy. It's for  
7 lack of a better word. He does various and sundry  
8 other things.

9 Q. What was his role with respect to the  
10 investigation regarding the breach of the voting  
11 system in Coffee County?

12 A. None that I know of, other than he works  
13 with Open Records a lot from elections, so he's sort  
14 of the liaison between the Open Records Division or  
15 Department, which is one person on the election side.  
16 He's usually copied all those, kind to keep  
17 everything in front of him.

18 Q. And so then Mr. Germany responds and adds  
19 Sara Koth. Can someone send me the 2020 cover --  
20 2020 Coffee County case sheet.

21 Do you see that?

22 A. Yes.

23 Q. And then he says, "Does that case sheet  
24 reference the case as still open? If it doesn't, we  
25 should update that case sheet; but I don't think we

1 need to open a new investigation into new allegations  
2 around the same set of facts as that investigation.  
3 I'll explain to Kate once someone sends me the 2020  
4 case sheet."

5 Do you see that?

6 A. Yes, sir.

7 Q. Do you know whether -- And if you're not  
8 familiar with the case sheet, maybe that answers  
9 the question, but I'll ask it.

10 Do you know whether the original 2020 case  
11 sheet that Mr. Germany requested here, whether that  
12 was ever amended or updated, as he suggests, to  
13 capture the breach investigation that began sometime  
14 in early 2022?

15 A. Given this context, I think what they're  
16 probably referring to is the SharePoint system,  
17 'cause they close and open things on there.

18 It may not be; but, in fact, that seems  
19 like what he's talking about here; but I don't know  
20 of a specific here's (indicating) a case sheet  
21 document or not.

22 Q. Okay. The -- As we saw in one of the  
23 earlier exhibits, we -- we looked at the -- the  
24 report that came out of the original 250  
25 investigation, and that report was from September of

1 last year.

2 Do you remember that?

3 A. Yeah. For the presentation to the State  
4 Election Board, yes.

5 Q. Was that investigation, was that case  
6 considered closed once that report came out?

7 A. I believe -- I don't know the answer,  
8 because they were presenting the three things that  
9 were already done; but maybe it doesn't mean the  
10 entire thing is closed.

11 And part of this was, as you saw, Mr.  
12 Callaway said, I will open an investigation on this;  
13 and it looks like one may not have officially begun,  
14 even though we started taking all the normal  
15 processes of doing that, as in going to the  
16 SharePoint thing and -- and putting those things in.

17 So they sort of -- Again, Coffee County's  
18 kind of a soap opera. That's where it conflicts  
19 together on that front.

20 Q. Well, do you know as you sit here whether  
21 the 250 investigation was ever closed?

22 A. I don't know if it was totally -- I think  
23 it was -- I think it was closed, but then reopened,  
24 because it was the same set of facts. I think that  
25 was the turn of events on that.

1 Q. Oh, is the 250 investigation still open?

2 A. I don't know the answer to that. I know  
3 that everything new is now that new case number we  
4 discussed earlier.

5 Q. All right.

6 A. Everything's going to be new; but, of  
7 course, now with GBI, so it's a different kind of  
8 environment.

9 Q. All right. Let me hand you, I think,  
10 Exhibit 12.

11 (Exhibit 12 was marked for  
12 identification.)

13 Q. (By Mr. Cross) And, actually, before you  
14 look at that, let me just ask you a threshold  
15 question.

16 So you're obviously familiar with Robert  
17 Sinners?

18 A. Yes.

19 Q. He works in your office?

20 A. Correct.

21 Q. And -- and he -- Is he the director of  
22 communications?

23 A. Yes.

24 Q. Okay. And you're familiar with Eric  
25 Chaney and Misty Hampton?

1 A. Yes.

2 Q. You know of them?

3 A. Yes.

4 Q. Yeah. Do you -- Do you have any insight  
5 into why Eric Chaney texted Misty Hampton Robert  
6 Sinner's personal cellphone number on the night of  
7 January 7, 2021, as they were finishing or had just  
8 finished the copying and everything that occurred in  
9 the office that day?

10 A. No.

11 MR. TYSON: I'll object to form and scope.

12 THE WITNESS: No.

13 Q. (By Mr. Cross) Have you ever discussed  
14 that with him?

15 A. Yes.

16 Q. And what can you share with me about that?

17 A. When you say him, I think Robert Sinners.

18 Essentially said they must have done it  
19 because my role before this was sort of head of, you  
20 know -- not security -- there was a word for it --  
21 election day operations, which then follows up on  
22 these items for the Trump action.

23 Now when I discussed it with him, he said  
24 at that point, the election's certified; I was  
25 unemployed; and I was in Savannah engaging in adult

1 beverages. So he doesn't recall getting one.

2 I -- I asked him the question.

3 He goes I don't remember seeing one, and  
4 he goes I never dealt with anything beyond that at  
5 that point.

6 So that was where I -- I had asked him  
7 about it, because it's a question.

8 And having worked on campaigns a big chunk  
9 of my life, going to Savannah and engaging in adult  
10 beverages after a loss is not an uncommon way to deal  
11 with things after the fact. It seemed logical.

12 Q. Uh-huh. Have you seen the text thread I'm  
13 talking about where Mr. Chaney sends Mr. Sinner's  
14 number to Ms. Hampton?

15 A. I have not.

16 Q. Okay. He says at the same time  
17 immediately after, he says let's switch to Signal.

18 Are you familiar with Signal?

19 A. Yes.

20 Q. And, again, you don't have any insight as  
21 to why Mr. Chaney and Miss Hampton were having that  
22 discussion at that time?

23 A. No.

24 MR. TYSON: And I'll object to scope and  
25 form.

1 THE WITNESS: No, sir.

2 Q. (By Mr. Cross) And do you know whether  
3 anyone either in the Secretary's Office or at their  
4 direction has investigated that?

5 A. No.

6 Bless you.

7 THE VIDEOGRAPHER: Thank you.

8 Q. (By Mr. Cross) All right. So grab  
9 Exhibit 12, if you would.

10 A. And that's the one message with No. 155 at  
11 the top?

12 Q. Yes.

13 A. Okay.

14 Q. So the cover page concerns an Open Records  
15 Request. You see it's from Misty Hampton, to Mr.  
16 Voyles, Tracie Vickers, along with Coffee County.  
17 It's dated November 16, 2020.

18 And it says please the attached for the  
19 ORR. This should complete both RR (sic). I air  
20 dropped the video to Ed Voyles.

21 Do you see that?

22 A. Yes, sir.

23 Q. And then if you come to the -- the very  
24 last page, turn it over to the back. Do you see that  
25 there is an e-mail exchange that begins between Miss

1 Hampton and it's Georgia EDO@donaldtrump.com (sic)?

2 A. Yes, sir.

3 Q. And you understand that e-mail address was  
4 an e-mail address that Robert Sinners used for the  
5 action?

6 A. That's my understanding. Yes.

7 Q. In fact, if you come up, you can see. He  
8 asked Miss Hampton, "Have the minutes and audio been  
9 approved? Thank you! Robert."

10 Do you see that?

11 A. Uh-huh. Yes.

12 Q. Do you know why Robert Sinners was looking  
13 for meeting minutes and audio and the other things he  
14 requests in this from Coffee County in November of  
15 2020?

16 MR. TYSON: And I'll object to scope.

17 Answer, if you know.

18 THE WITNESS: Given the timing of this,  
19 this was around the time that they were kind of  
20 going through their machinations of refusing to  
21 certify, so I think in attempting for the Trump  
22 action to find anything and everything that  
23 could be thrown up as the election was tainted  
24 somehow, this was one of those specific things  
25 he was probably trying to collect.

1           Q.       (By Mr. Cross) Do you know of any  
2 investigation into whether Mr. Sinners had any  
3 knowledge of the breach in Coffee County at or around  
4 the time that it occurred?

5           A.       No.

6           Q.       Do you know of any investigation into  
7 whether he was involved?

8           A.       No.

9           Q.       Do you know why he was hired into the  
10 Secretary of State's Office immediately after,  
11 literally days after Jeffrey Lenberg was last in that  
12 office accessing the equipment?

13                   MR. TYSON: And I'll object to scope.  
14 Personnel's not in the topics.

15                   THE WITNESS: And secondly --

16           Q.       (By Mr. Cross) I'm just asking if you  
17 know. If you don't know, that's fine.

18           A.       Well -- well, you -- you --

19                   You asked two questions. You asked why he  
20 was hired. That's one question, and then you asked a  
21 secondary question of why he was hire days after  
22 Lenberg was there.

23                   From the point of view of the Office, one  
24 had nothing to do with the other, 'cause we had no  
25 idea of the existence of Mr. Lenberg going to the

1 Coffee County office, so that's an unrelated question  
2 that has nothing to do with why Mr. Sinners was  
3 hired.

4 Jordan, secretary -- Jordan Fuchs,  
5 F-U-C-H-S, the deputy secretary at the time, had been  
6 talking off and on to Mr. Sinners, who had expressed  
7 the fact that a lot of this stuff is getting stupid  
8 and crazy; and I think y'all are doing the right  
9 thing; and you're, you know, telling the truth. And  
10 I want to be able --

11 So I'm -- I'm boiling it down from  
12 Jordan's relation to me of all this, because I myself  
13 had misgivings about hiring somebody directly so  
14 close to the Trump action at that period of time, but  
15 I think he genuinely --

16 He also had insight into what the Trump  
17 people were doing. At that time, we were in the  
18 middle of, for lack of better word, the fight of our  
19 lives, trying to defend the integrity election  
20 against, you know, Donald Trump, Sidney Powell, Lin  
21 Wood and all the conspiracy theorists and election  
22 deniers.

23 So having somebody who had an  
24 understanding of that -- and there's a -- He spoke  
25 Trump essentially. Our office, we didn't really

1 speak Trump. We understood it somewhat, but it was  
2 good to have somebody with that level of insight into  
3 how they approach things and what they were doing and  
4 what the claims were and where they came from.

5 So it wasn't tactically -- It was  
6 tactically probably a smart idea but -- and I was --  
7 I came around to the idea.

8 But yes. That -- That was the timing and  
9 the rationale behind hiring, because he understood  
10 those things, he had a background of communications,  
11 he could speak Trump, and we knew we have to --

12 Democrats all accepted the outcome. The  
13 people in Georgia that -- who didn't accept the  
14 outcome were Republicans, and many of them were what  
15 we call Trump Republicans, so it made logical sense  
16 to a degree to hire somebody from -- from that world  
17 who had a different point of view than that world at  
18 that time, but understood where a lot of it came  
19 from.

20 Q. And then he was promoted to elections  
21 direct -- Or sorry. He was promoted to  
22 communications director in the summer?

23 A. That sounds about right.

24 Q. All right. Let me hand you 13, I think.

25 A. One second. I'm sorry. Trying to keep

1 some water way back.

2 Q. Thank you.

3 (Exhibit 13 was marked for  
4 identification.)

5 Q. (By Mr. Cross) 13. And that's Tab 60,  
6 six zero; and if you look at the most recent e-mail,  
7 this is an e-mail that you received from Ryan  
8 Germany, along with Mr. Tyson, Carey Miller, Vincent  
9 Russo, and Steven Ellis on August 1st of 2022.

10 Is that right?

11 A. Yes.

12 Q. All right. You can put that aside.

13 A. Okay.

14 Q. Let me hand you Exhibit 14.

15 (Exhibit 14 was marked for  
16 identification.)

17 MR. CROSS: I'll ask if you want one.

18 MR. BROWN: Thank you.

19 Q. (By Mr. Cross) So Exhibit 14, do you see  
20 at the top?

21 This is an -- This is an e-mail that Sara  
22 Koth sent to Steven Ellis on July 12th, 2022  
23 regarding an Open Records Request. Do you see that?

24 A. Yes.

25 Q. And if you turn to the second and third

1 page, you'll see that this concerns the same Open  
2 Records Request from Kate Brumback of the AP that we  
3 were looking at a moment ago?

4 A. Yes.

5 Q. If you look at Mr. Germany's e-mail on the  
6 first page, so he sends an e-mail to Open Records,  
7 Steven Ellis, Paul Kokenes, Sara Koth, on April 25th  
8 of 2022 at 3:06 p.m.

9 Do you see that?

10 A. Yes.

11 Q. And he says to Miss Koth, "... let's  
12 reopen this case in investigations, and we can note  
13 that it was re-opened to deal with new allegations  
14 regarding the same event."

15 Do you see that?

16 A. Yes.

17 Q. Can you help me understand that, 'cause  
18 how did the allegations of unauthorized access that  
19 occurred in Coffee County in January of 2021  
20 regarding the same event of what had already been  
21 investigated under 250 -- aren't those -- Aren't  
22 those vastly different events?

23 A. I wouldn't call them vastly different, and  
24 I know what Ryan's mind-set basically was, was we  
25 have an investigation. We have some of the same

1 people and -- and issues around this.

2           Essentially, Misty -- We kind of tie it  
3 back to -- I think in his mind -- tie it back to the  
4 video, the failure to certify, all -- all these  
5 things are Misty Hampton acting badly essentially  
6 or -- or Misty and the Board, so that was kind of the  
7 thought process, that this is all -- this is her  
8 continuing to not do the right thing.

9           Could you have opened a separate  
10 investigation number? Potentially.

11           But it -- it kind of made sense internally  
12 at the time that let's just make it the same people  
13 on it. They already know some of these players.  
14 It just makes -- It made sense to them at the time.

15           Q.     At some point in December of 2021, 250 was  
16 referred by the SEB to the -- the AG's Office, right?

17           A.     That's correct. I believe -- I believe  
18 it was December. Yes. I knew at the end of 2021.

19           Q.     In reference -- The Secretary's Office,  
20 at least through counsel, has said that that  
21 investigation was referred back to the Secretary's  
22 Office after the -- the call recorded of Mr. Hall  
23 came to light.

24           Is there any documentation you're aware of  
25 referring to the 250 investigation back to the

1 Secretary's Office?

2 A. No.

3 THE WITNESS: Can someone grab me some  
4 water.

5 MR. CROSS: Okay. Do you need water?

6 THE WITNESS: Yeah. I could use some.

7 MR. CROSS: Okay.

8 THE WITNESS: Thank you. I'd normally  
9 gotten myself, but I don't think -- I shouldn't  
10 be able to get up.

11 MR. TYSON: Yeah.

12 (Discussion ensued off the record.)

13 MR. CROSS: Oh, okay.

14 MR. TYSON: It's a -- David, just for  
15 reference, checked while we were working through  
16 here; and the case sheet is what's printed out  
17 in the SharePoint system, so it's not like a  
18 document that exists. It's a printout of the  
19 status in the SharePoint system, so that's what  
20 you have there.

21 If you want to mark that, we can work  
22 through that, too, so --

23 Q. (By Mr. Cross) All right. We can go do  
24 that. Is this just 14 or 15?

25 THE VIDEOGRAPHER: 15.

1 MR. KNAPP: 15.

2 (Exhibit 15 was marked for  
3 identification.)

4 Q. (By Mr. Cross) 15. All right. Let me  
5 hand you --

6 A. Are we done with these now, David?

7 Q. Yes.

8 A. Okay. And this one.

9 Q. All right. Let me hand you Exhibit 15.

10 A. I need one more, David.

11 MR. TYSON: That's all right. I have one.

12 THE WITNESS: Okay. Thank you.

13 MR. CROSS: I just realized -- Hold on.

14 MR. SPARKS: I just sent those.

15 MR. CROSS: Oh, you did?

16 MR. SPARKS: Yeah.

17 MR. CROSS: She has a copy of this?

18 MR. SPARKS: She will have momentarily.

19 MR. CROSS: Okay. Cool. I was going to  
20 do that. Thank you, Adam.

21 MR. SPARKS: You're welcome.

22 Q. (By Mr. Cross) All right. What is  
23 Exhibit 15?

24 A. This is the item showing the status of  
25 SEB2020, dash, 250 out of our SharePoint system.

1           Q.     Is it your understanding that in the  
2     e-mails we were looking at with Mr. Germany where he  
3     refers to the case sheet, that this is -- this is the  
4     type of document he's talking about?

5           A.     That is my understanding.

6           Q.     Have you seen this type of document before  
7     now?

8           A.     Yes.

9           Q.     Okay. And, again, just help me  
10    understand. You -- When it says that this is  
11    generated from the system, what does that mean?

12          A.     For our investigations, there is a  
13    SharePoint system that is built out. It's basically  
14    a document depository that we manage through an -- a  
15    portal basically that's built out by a company called  
16    ThreeWill, that they update and do these things; but  
17    this is where we keep all the documents attached to  
18    individual cases, so they can all be found in one  
19    place.

20                 So unfortunately, in the way of the world,  
21    we have a high turnover of investigators, so we need  
22    to have something to be able to share and keep  
23    investigations going easily as opposed to stacks and  
24    stacks of paper. That's why this is built out.

25          Q.     Okay. Well, it indicates that -- It says

1 date presented to the Board, December 14, 2021.

2 That's the SEB, State Election Board?

3 A. Correct.

4 Q. And then it says case voted on December  
5 14, 2021 for AG Office. That's when it's --

6 Is that voted on to refer to the AG  
7 Office?

8 A. Reading that and knowing the outcome, yes.  
9 That's -- That's that reference.

10 Q. If an investigation is referred to the AG  
11 Office, is that because the SEB thinks that there's a  
12 prosecution required; or what's the --

13 Do you have insight into what leads the  
14 SEB to refer an investigation to the AG Office?

15 A. They --

16 MR. TYSON: Object to scope.

17 You can answer.

18 THE WITNESS: They -- They do that  
19 essentially to push -- push it to the AG to see  
20 is there a full violation here that can rise to  
21 a higher level, but it's --

22 It's an odd system that I've never fully  
23 been able to grasp, because the AG then doesn't  
24 just take this and prosecute it. They take it  
25 before an administrative law judge, who then

1 makes a decision. Then sends it back to us for  
2 some reason.

3 And then we can forward it on to local  
4 prosecutors. There's any number of things after  
5 that. It's a system that seems wildly  
6 inefficient; but that's the way the law is set  
7 up, I suppose, right now.

8 Q. (By Mr. Cross) Okay. And when it says  
9 date reassigned, April 25th of 2022, do you know what  
10 that means?

11 A. Well, it coincides, if you look at the  
12 e-mails we were just looking at in the previous  
13 exhibits, when Miss Koth said she was able to  
14 essentially reopen that and say it's reassigned now  
15 for continued investigation.

16 Q. Okay. Thank you.

17 All right. Let me hand you Exhibit 16.

18 (Exhibit 16 was marked for  
19 identification.)

20 THE WITNESS: These are stapled. You  
21 threw me off.

22 Q. (By Mr. Cross) Oh, yeah. Sorry.

23 So this is Tab 17.

24 A. And I have a feeling we're going to go  
25 through a long version of this stuff here real quick.

1 Is there a way I can break out for one second before  
2 we do that?

3 MR. CROSS: Sure.

4 THE WITNESS: Okay. Coffee break.

5 THE VIDEOGRAPHER: Go off the record.

6 THE WITNESS: Yeah. Five -- Ten minutes.

7 THE VIDEOGRAPHER: We're going off the  
8 record at 2:11.

9 (Recess from 2:11 p.m. to 2:19 p.m.)

10 THE VIDEOGRAPHER: We're on the record at  
11 2:19.

12 Q. (By Mr. Cross) All right. So you should  
13 have in front of you Exhibit 34 and --

14 MR. TYSON: Exhibit 16.

15 THE WITNESS: 16.

16 Q. (By Mr. Cross) Sorry.

17 A. I was like. Wait. Did I miss something?

18 Q. It's Exhibit 16. And do you recognize  
19 this as photos from inside the Coffee County Election  
20 Office?

21 A. Yes, sir.

22 Q. Have you seen these -- these photos --

23 A. Yes.

24 Q. -- before?

25 Have you seen the actual video of

1 surveillance?

2 A. I've seen. I've not watched all of it.  
3 I've seen piece -- pieces of it, but I've seen --  
4 I've mainly been shown the individual images from  
5 that.

6 Q. Okay. And when did you first see the  
7 video surveillance?

8 A. Oh, I could -- It's sometime within the  
9 last 45 days, something like that, give or take.

10 Q. And do I understand correctly that no one  
11 on behalf of the State authorized any of the access  
12 that we see in the surveillance videos from Coffee  
13 County that occur in the elections office in the  
14 month of 2021?

15 A. Correct.

16 Q. It's your understanding no one in the  
17 Secretary's Office knew about that at the time that  
18 it was happening?

19 A. Correct.

20 Q. All right. Let me hand you --

21 A. Mr. Cross, we done with 16 for now?

22 Q. Yes. You can put that away.

23 Some of that may be the same as this. I'm  
24 not sure why it got printed this way, but let me just  
25 give you this.

1 MR. CROSS: So this is going to be Exhibit  
2 17.

3 (Exhibit 17 was marked for  
4 identification.)

5 Q. (By Mr. Cross) You can ignore the cover  
6 sheet. That's from my --

7 A. All right.

8 Q. -- prior deposition.

9 So this is Tab 20, Exhibit 17. So this is  
10 a compilation of screenshots from video, some of  
11 which is on the outside, some of which is on the  
12 inside.

13 A. Okay.

14 Q. But if you look here, if you look to the  
15 first page, you'll see that this is dated from  
16 December 11, 2020. Do you see that along --

17 A. Yes.

18 Q. -- the top?

19 And so this is the day where Frances  
20 Watson and others from the Secretary's Office came in  
21 and met with Misty Hampton, Tony Rowell, and others,  
22 as part of that original 250 investigation.

23 A. Yes, sir.

24 Q. Okay. And the individual there who's  
25 coming in, he -- he's got a badge or a seal on his

1 shirt, long-sleeve blue shirt. Is that Josh  
2 Blanchard?

3 A. Correct.

4 Q. Okay. Mr. --

5 A. And the one in front of him is Pam, and  
6 the two behind are Tom Feehan and Scott -- I'm  
7 totally blanking on his last name -- both from  
8 Dominion.

9 Q. So and I was going to ask. So the woman  
10 in front of him is Pamela Jones?

11 A. Correct.

12 Q. And then who's the one on the left behind  
13 Blanchard?

14 A. That's Scott.

15 Q. Scott Tucker?

16 A. Yes. Thank you. I couldn't remember his  
17 last name to save my life.

18 And then Tom Feehan.

19 Q. How do you spell Tom's last name?

20 A. F-E-E-H-A-N.

21 Q. They're both with Dominion?

22 A. Correct.

23 Q. And then if you come to the next page,  
24 same day, 30 minutes later, that's Frances Watson at  
25 the front door, right?

1 A. Correct.

2 Q. Is it customary for your investigators to  
3 come to an investigation like this carrying a  
4 firearm?

5 A. Absolutely. They are -- They are sworn  
6 officers. They -- I have to buy ammunition and guns  
7 for them through my COO. They are always -- They  
8 are always armed.

9 Q. But Mr. Blanchard is not?

10 A. I don't know. He may -- He may have an  
11 ankle on. I couldn't tell you.

12 Q. Okay. All right. Still in Exhibit 17 --

13 A. What page number? I can get there.

14 Q. That's what I was going to get you to. Go  
15 to -- All right. Go to Page 4.

16 A. From January 18th, 2021?

17 Q. Correct.

18 A. Okay.

19 Q. Do you recognize that individual?

20 A. I think I've been told who he is, but no.  
21 I don't personally recognize him.

22 Q. Have -- Have you been told that's Doug  
23 Logan?

24 A. Okay. That -- That comports what I was  
25 told, I believe.

1 Q. Okay. And so here we have a picture of  
2 Doug Logan entering the office in Coffee County on  
3 January 18 of '21.

4 You see that?

5 A. Yes, sir.

6 Q. And then shortly after he comes in, do you  
7 recognize this individual entering the office as  
8 Jeffrey Lenberg?

9 A. Is this the one at 4:20 p.m. on the same  
10 day?

11 Q. Yes. Blue jacket, gray hair?

12 A. Is that blue? He's carrying power aids?

13 Q. Yes.

14 A. Okay. Then yes. I was -- I've -- I've  
15 been told that that was Mr. Lenberg.

16 Q. Okay. And then if you come to Page 6, you  
17 can see that both Mr. Logan and Mr. Lenberg make it  
18 inside the Coffee County Election Office into the --  
19 the nonpublic area.

20 Do you see that?

21 A. Okay. What appears to be Misty holding  
22 the door for them.

23 Q. Yes. And if you come to Page 9, we're  
24 still on January 18 of '21, 7:38 p.m. Do you see  
25 Doug Logan standing in the doorway of Misty Hampton's

1 office on the phone?

2 A. I don't know that's Misty Hampton's  
3 office, but I see Doug in an office door. Yes.

4 Q. Okay. And then you see them. On the next  
5 page, you see the two of them, Mr. Logan and Mr.  
6 Lenberg leaving around 8:00 p.m. on the 18th?

7 A. Hold on. I'm trying to get some water. I  
8 apologize.

9 Yes. Both carrying their --

10 Okay. Got it.

11 Q. Yeah. And then if you flip to Page 12,  
12 the 19th, you see Mr. Lenberg come back to the  
13 office?

14 A. And it looks like Mr. Logan holding the  
15 door, but I can't tell.

16 Q. Yeah. If you go to Page 13, you see the  
17 two of them inside the elections --

18 A. Okay.

19 Q. -- office again?

20 A. Yes, sir.

21 Q. And then if you go on to Page 17, you see  
22 them leave around 6:19 p.m. on January 19. Do you  
23 see that?

24 A. Yes.

25 Q. And then if you go to Page 18, the very

1 next day, on January 20, we have Josh Blanchard  
2 returning to the elections office.

3 Do you see that?

4 A. Yes.

5 Q. Why was Josh Blanchard in the elections  
6 office on January 20?

7 A. He was there to pick up the statements  
8 that I referenced earlier from Misty Hampton, the  
9 signed statement saying that I have, never did, never  
10 will commit voter fraud.

11 So I see he comes in at 9:50 and leaves  
12 9:52. Then comes back in. No. That's at 9:59.  
13 That's right.

14 Now back in. There was your time period.  
15 I don't know.

16 He was there on that day to get that  
17 statement. I talked to him directly about that.

18 Q. Okay. All right. Flip to Page 35, if you  
19 would, still on Exhibit 17.

20 A. (Witness complies with request of  
21 counsel.)

22 Q. So we get to Page 35.

23 A. Yes.

24 Q. Do you see there's a screenshot of Jeffrey  
25 Lenberg coming into the elections office on January

1 26, 2021 at 7:35 a.m.?

2 A. Yes.

3 Q. Then on Page 36, you see him make it into  
4 the nonpublic area and --

5 A. On Page -- Is that Page 36?

6 Q. 36.

7 A. So it's 10:35 a.m.

8 Q. Right.

9 A. Okay.

10 Q. Yeah. And then if you go to Page 37, half  
11 an hour after Mr. Lenberg comes into the office, Josh  
12 Blanchard shows up again.

13 A. Uh-huh.

14 Q. Do you see that?

15 A. Yeah. I'm trying to think now. These  
16 dates were so close together, 'cause I talked to Josh  
17 about both of these items.

18 And I think the first one, he's supposed  
19 to get it. She didn't have it ready or something.  
20 The second one's when he actually got it, so I think  
21 in my mind it was the 26th when he actually picked it  
22 up.

23 So I misspoke earlier, the 20 -- I think  
24 his intent was to pick it up, because he was down  
25 there; and they had been --

1                   When I talked to Pam and Frances, they had  
2                   been kind of badgering her to get that to them,  
3                   the -- the -- the wet-signature version of it versus  
4                   just anything else, which was her statement asking,  
5                   you know, never committed fraud ever before.

6                   Q.       Okay.

7                   A.       So maybe he didn't have it ready; or I  
8                   don't know what was going on, on the 20th; but I  
9                   think -- think the 26th, when he physically picked it  
10                  up.

11                  Q.       Where -- Where does Mr. Blanchard live?  
12                  Where is he stationed?

13                  A.       South of Atlanta, if memory serves; but he  
14                  does -- He goes through this area. This is kind of  
15                  his go-to sort of route.

16                         If you look at his logs which, you know,  
17                         they basically show where he drives and does stuff,  
18                         there was another case down here of -- I think, what  
19                         was it -- vote buying in Douglas that he was  
20                         investigating, so when he was doing that, he went  
21                         by and -- one of these two times for that purpose.

22                  Q.       Okay. So we have Mr. Blanchard. He comes  
23                  in --

24                         Is it Agent Blanchard?

25                  A.       What did we call him?

1 MR. TYSON: Call him investigator.

2 THE WITNESS: Investigator Blanchard.

3 Yes.

4 THE COURT REPORTER: Oh, you're not on,  
5 are you?

6 MR. CROSS: What?

7 MR. TYSON: Oh, we've been on the record.

8 THE WITNESS: We've been on the record for  
9 a while.

10 MR. TYSON: Oh, yeah.

11 MR. CROSS: You're kidding, right?

12 THE COURT REPORTER: No. I'm not. It's  
13 okay. I'll pick it up. I'll pick it up. You  
14 guys keep going. Go on.

15 MR. CROSS: How much did you not get?

16 THE VIDEOGRAPHER: From 2:18 till now.

17 MR. CROSS: What did you think we were  
18 doing the last --

19 THE VIDEOGRAPHER: I -- I --

20 MR. CROSS: -- 10 minutes?

21 THE COURT REPORTER: I don't know. I'm --

22 THE WITNESS: That's okay.

23 MR. KNAPP: She -- She's been dealing  
24 with a speed walker.

25 MR. BROWN: It's my fault. I distracted

1 David there.

2 It's all right. It's all right. We'll  
3 keep it back.

4 MR. CROSS: All right. But you have the  
5 audio?

6 All right. We're good. Okay.

7 THE COURT REPORTER: It will be there.

8 MR. CROSS: You're fine.

9 MR. KNAPP: We've got the Rock over here.

10 MR. BROWN: No. That's all right.

11 THE COURT REPORTER: Geez.

12 MR. BROWN: We're good.

13 THE WITNESS: Can we smell what he's  
14 cooking now?

15 Did anybody get that Rock reference I  
16 said?

17 THE COURT REPORTER: Oh, no.

18 MR. CROSS: You good?

19 THE COURT REPORTER: Yeah.

20 MR. CROSS: Okay.

21 Q. (By Mr. Cross) All right. So let's just  
22 pick up where we were. So Page 37, Exhibit 17 --

23 A. Yeah.

24 Q. -- Josh Blanchard comes into the election  
25 office around 11:07 a.m. on January 26th of 2021.

1 A. Uh-huh.

2 Q. And then the next page. About a minute  
3 later, he makes it into the public area, where he's  
4 talking to Misty Hampton.

5 Do you see that?

6 A. Is that 11:08?

7 Q. Yes.

8 A. Okay. Yeah.

9 Q. So we can tell from Pages 35 to 37 on  
10 through 38, 39, 40 that Josh Blanchard is in the  
11 elections office at the very same time Jeffrey  
12 Lenberg is there.

13 A. Yes.

14 Q. And if you go to Page 40 -- and -- And  
15 you can see that Mr. Blanchard goes into Misty's  
16 office with him on Page 40.

17 Do you see that?

18 A. Yes.

19 Q. And do you understand there's a window  
20 from her office into that -- that main area?

21 A. I know that only from the videotape.

22 Q. All right.

23 A. Yes.

24 Q. And so then while Mr. Blanchard is sitting  
25 in Misty Hampton's office with a window into this

1 area, we see Jeffrey Lenberg walk out in that main  
2 area on Page 41 --

3 A. Uh-huh.

4 Q. -- at January 26, 2021 at 11:08 a.m.

5 Do you see that?

6 A. Yes.

7 Q. So even though this spans several pages,  
8 if you look at the timestamps, you can see it all  
9 happens within a matter of seconds at 11:08 a.m.

10 A. Yes.

11 Q. And then Mr. Lenberg comes back in at Page  
12 43, only about a minute later at 11:09 a.m.

13 A. Okay.

14 Q. And then Josh Blanchard leaves the office  
15 at Pages 45 and 46 at 11:12 a.m.

16 Do you see that?

17 A. I'm trying to get there.

18 I say 'cause I see Mr. Lenberg come back  
19 through the office, but doesn't go to Misty's office.  
20 He goes further back somewhere else.

21 Q. Yes.

22 A. And then about two and a half minutes  
23 later, Mr. Blanchard walks out the other door.

24 Q. Okay. So did Mr. Blanchard not see  
25 Jeffrey Lenberg when he was there?

1           A.       I talked to him and asked him the  
2 question.

3                   He goes, I don't recall seeing anybody  
4 there.

5                   And I want to put some perspective on  
6 this. It's not like there's a wanted poster of  
7 election deniers to be looking for, for our  
8 investigators. Our -- We weren't of that mind-set.  
9 He was there to get a document from Misty so --

10                  And, again, one thing I can't possibly  
11 know is I don't know where he was standing with that  
12 window. He could have been standing with his back to  
13 the door, to the window. There's no -- There's no  
14 telling on that front so --

15                  But no. He says he doesn't recall seeing  
16 anybody; and if he does, he says it's -- I could  
17 have seen somebody. It's just been months ago. I  
18 don't remember anything standing out in my mind that  
19 there was anything there. Just bizarre happenstance.

20           Q.       So he -- So okay. So but Mr. Blanchard  
21 does not recall seeing Jeffrey Lenberg in the office  
22 that day?

23           A.       No.

24           Q.       Okay. And --

25           A.       And one of the things when I discussed it

1 with him in the context -- This was recent  
2 discussion. He says I was there on the 20th or the  
3 26th, and she didn't say anything to me about people  
4 coming and looking at the stuff.

5 I mean, she thought she was okay when she  
6 just mentions, hey, we're doing this stuff, too,  
7 trying to prove the election was, you know,  
8 fraudulent, so nothing like that.

9 And, again, it goes back to her being  
10 relatively contentious with our office, I think.

11 Q. Well, and yeah. If you look at -- Go to  
12 Pages 49 and 50.

13 A. Okay.

14 Q. So this is just three minutes after Mr.  
15 Blanchard leaves at Page 49.

16 A. Uh-huh.

17 Q. You have Jeffrey Lenberg approaching the  
18 door to the front vestibule from the main area.

19 Do you see that?

20 A. And then looking out the window.

21 Q. Right. And then on Page 50, you can see  
22 he's looking through that little window --

23 A. Yes.

24 Q. -- as if he's looking for someone, right?

25 A. Yes.

1 Q. But we know from the surveillance video  
2 that Mr. Blanchard was gone at that point?

3 A. Correct.

4 Q. Okay.

5 A. Now I don't know if he's looking for Mr.  
6 Blanchard or not, although that's a -- probably a  
7 logical supposition.

8 Q. Right. Do you know whether when Chris  
9 Harvey and Frances Watson called for an inquiry into  
10 the Cyber Ninjas' potential access, whether anyone  
11 thought more broadly about individuals who were  
12 associated with that sort of circle or group -- Doug  
13 Logan, Jeffrey Lenberg, and others?

14 A. We call it -- What was the word you just  
15 used?

16 Q. Which one?

17 A. You said like inquisition. You didn't say  
18 investigation.

19 Q. Well, because I mean, earlier you guys  
20 were kind of pushing back and --

21 A. I was --

22 Q. -- saying --

23 A. I was --

24 Q. -- investigation?

25 A. Let's -- let's -- That's all right.

1 Say your words.

2 Q. I said inquiry. We can call it little "i"  
3 investigation, as Brian said. I -- I didn't want to  
4 get tripped up with the wording.

5 A. Yeah. And that's -- that's kind of what I  
6 was going towards. The inquiry sounds even official  
7 than an --

8 Q. Oh.

9 A. -- investigation --

10 Q. No.

11 A. -- to me so --

12 Q. Okay.

13 A. No. I think it was -- I don't know if  
14 they said Cyber Ninjas specifically, or did anybody  
15 have access. Did they do anything like this was sort  
16 of the mind-set. It wasn't exclusively related to  
17 that.

18 And at the time, I had never heard the  
19 Lenberg name except maybe in an article that I had to  
20 my list of, you know, crazy people who thought the  
21 election was stolen.

22 Q. Uh-huh. Okay. If you look at Exhibit 17,  
23 Page 53 --

24 A. Is that --

25 Q. It's what we just looking at.

1 A. Same one. Okay.

2 I put it back together. Sorry.

3 Q. That's okay. This is the last one.

4 A. All right.

5 Q. If you flip to Page 53 --

6 A. Yes.

7 Q. -- you see the picture of Jeffrey Lenberg  
8 walking in, holding a box in front of his face?

9 A. Yes.

10 Q. And you notice that -- I don't know if you  
11 can tell but that's a ring light. Have you ever seen  
12 a ring light?

13 There's actually -- There's actually one  
14 in the office right in front of you.

15 A. I see that there's a symbol of what looks  
16 like a ring light, but I couldn't say for certain  
17 that is a ring light.

18 Q. Okay. Well, sorry. I was going to ask  
19 you. Are you aware of whether any investigation  
20 that's been done into what Mr. Lenberg brought with  
21 him that day and what he used it for?

22 A. Not that I'm aware of specific. It looks  
23 like he used it as an umbrella right here, 'cause it  
24 was raining.

25 Q. Or maybe to hide his face from the camera;

1 but you know, so --

2 A. So many times, I doubt he was doing that.  
3 Just, again, it's raining --

4 Q. You're --

5 A. -- so --

6 Q. -- the one that said earlier they're not  
7 rational actors.

8 A. Okay. Point taken.

9 Q. But you're familiar with people using the  
10 ring cameras to light up videos like a Zoom video?

11 A. Yeah. Usually, when they're talking to  
12 the camera, that's what the ring is intended for.

13 Q. Are you aware any investigation by the  
14 State or anyone else to determine whether Mr. Lenberg  
15 or anyone else created any kind of video while they  
16 were in the Coffee County Election Office?

17 A. I'm not specifically aware; but, again,  
18 the GBI has taken lead on this, so they would be the  
19 people to have the discussion with; and since it's an  
20 active investigation, I doubt they'd answer.

21 Q. Yeah. Okay. Now I probably know the  
22 answer, but I'll ask it.

23 Are you aware of any investigation into  
24 whether there was any kind of Internet-based  
25 broadcast from the county -- Coffee County Elections

1 Office in January of 2021, a video?

2 A. Investigation of that time period? Now --

3 Q. Yes.

4 A. -- at that time period?

5 Q. Correct.

6 A. Okay. I'm not aware of one; but, again,  
7 this is in GBI's hands right now, so I think that  
8 would be something that would probably fall into that  
9 purview.

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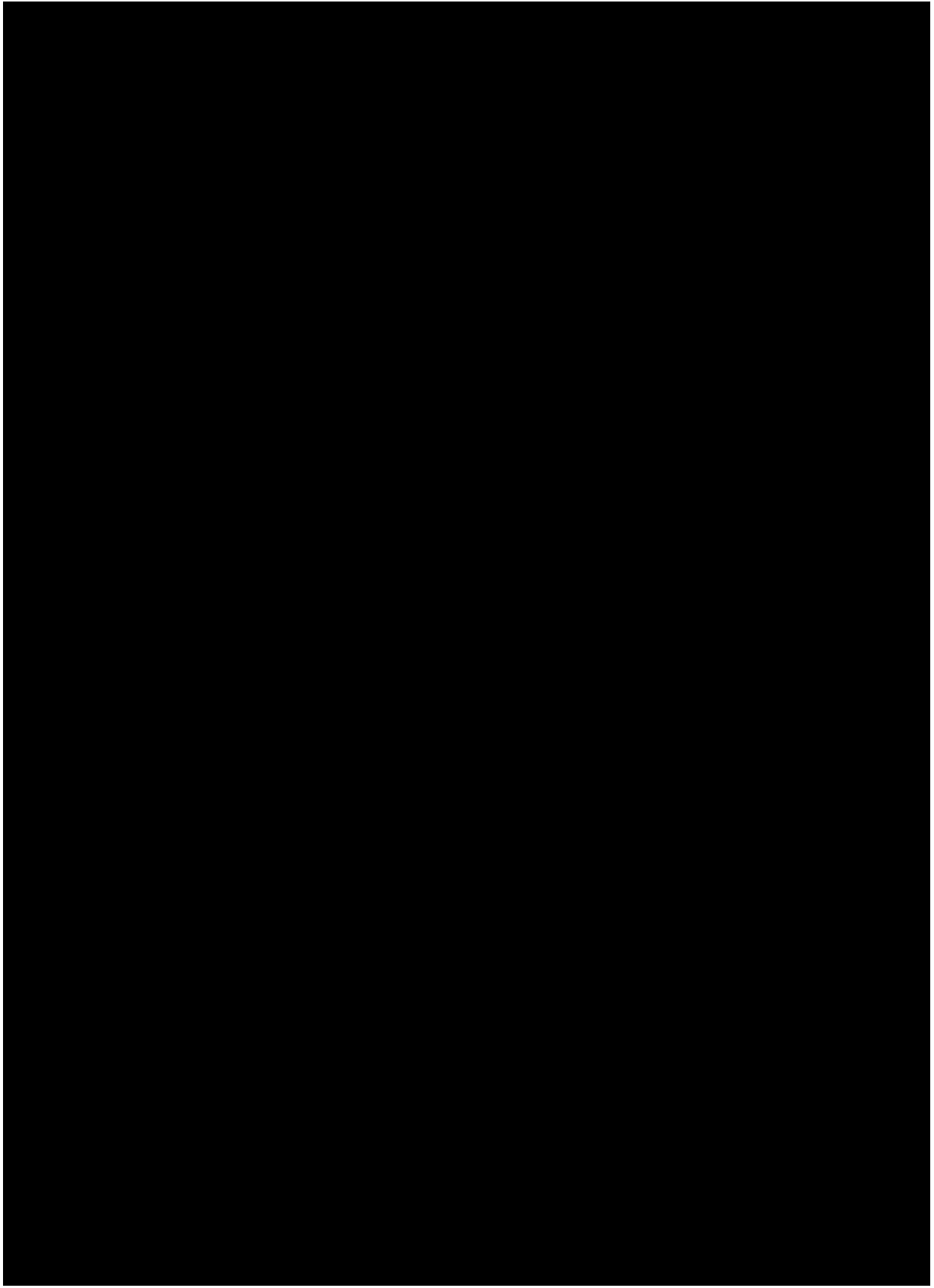
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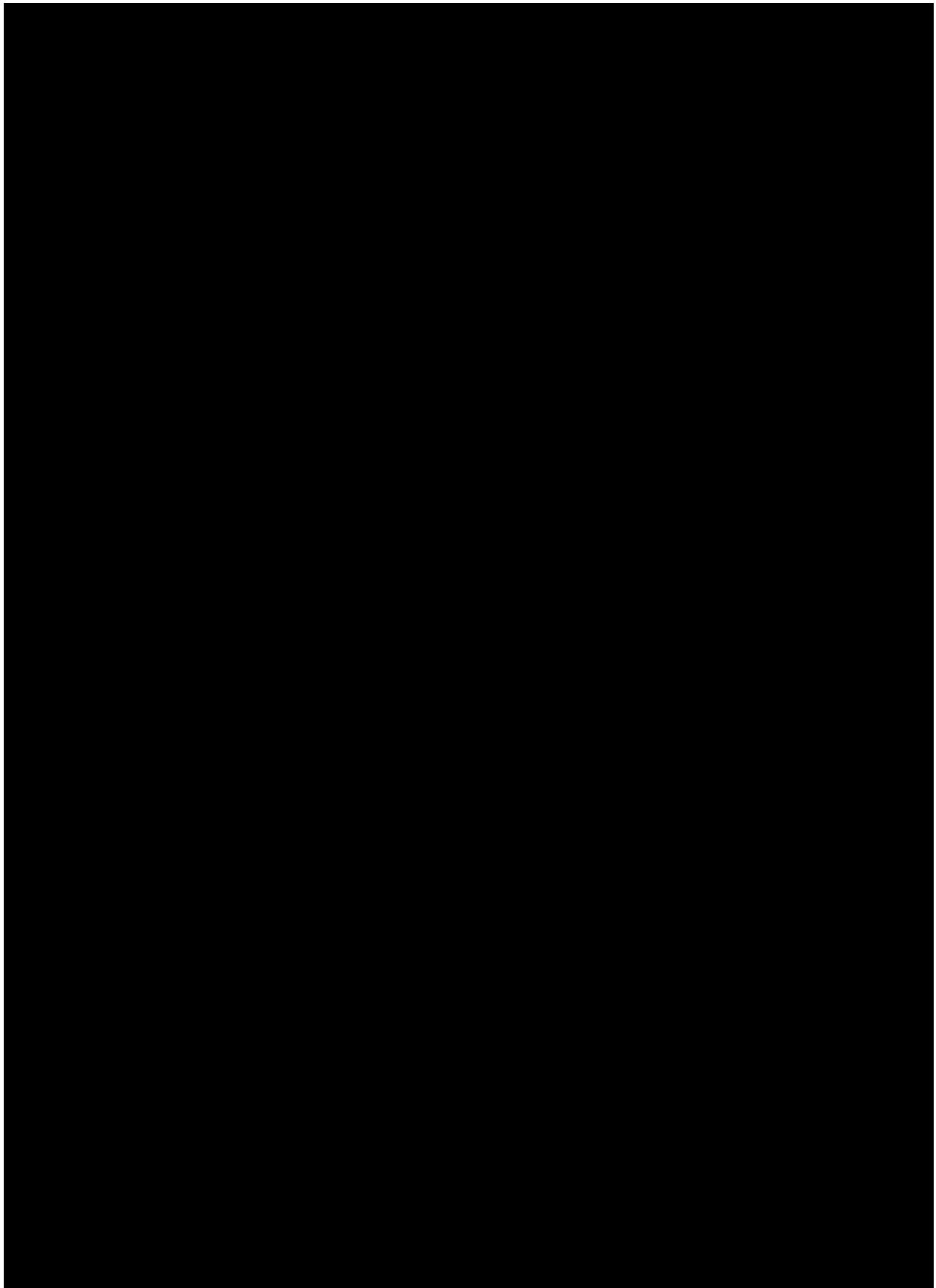
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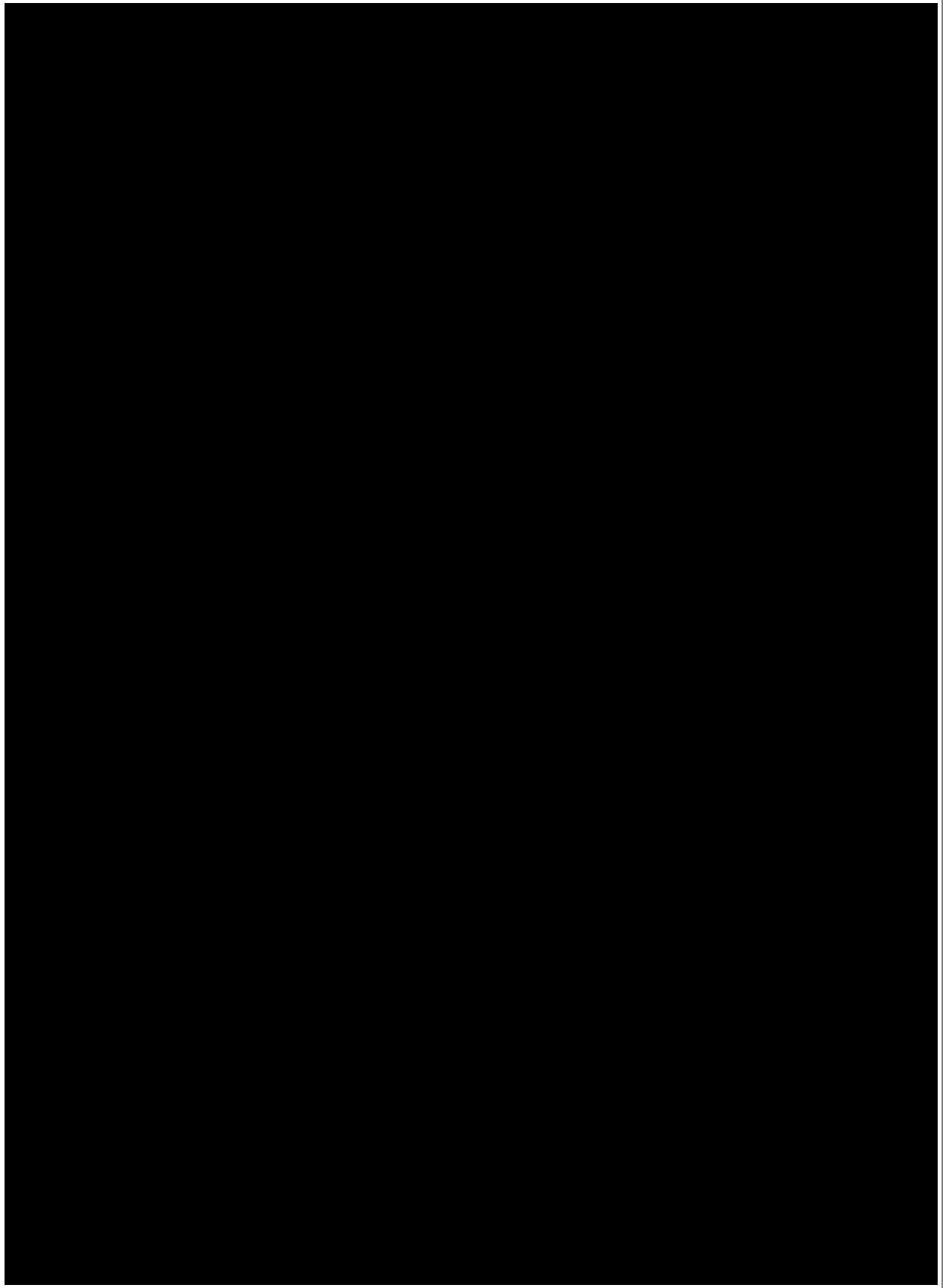
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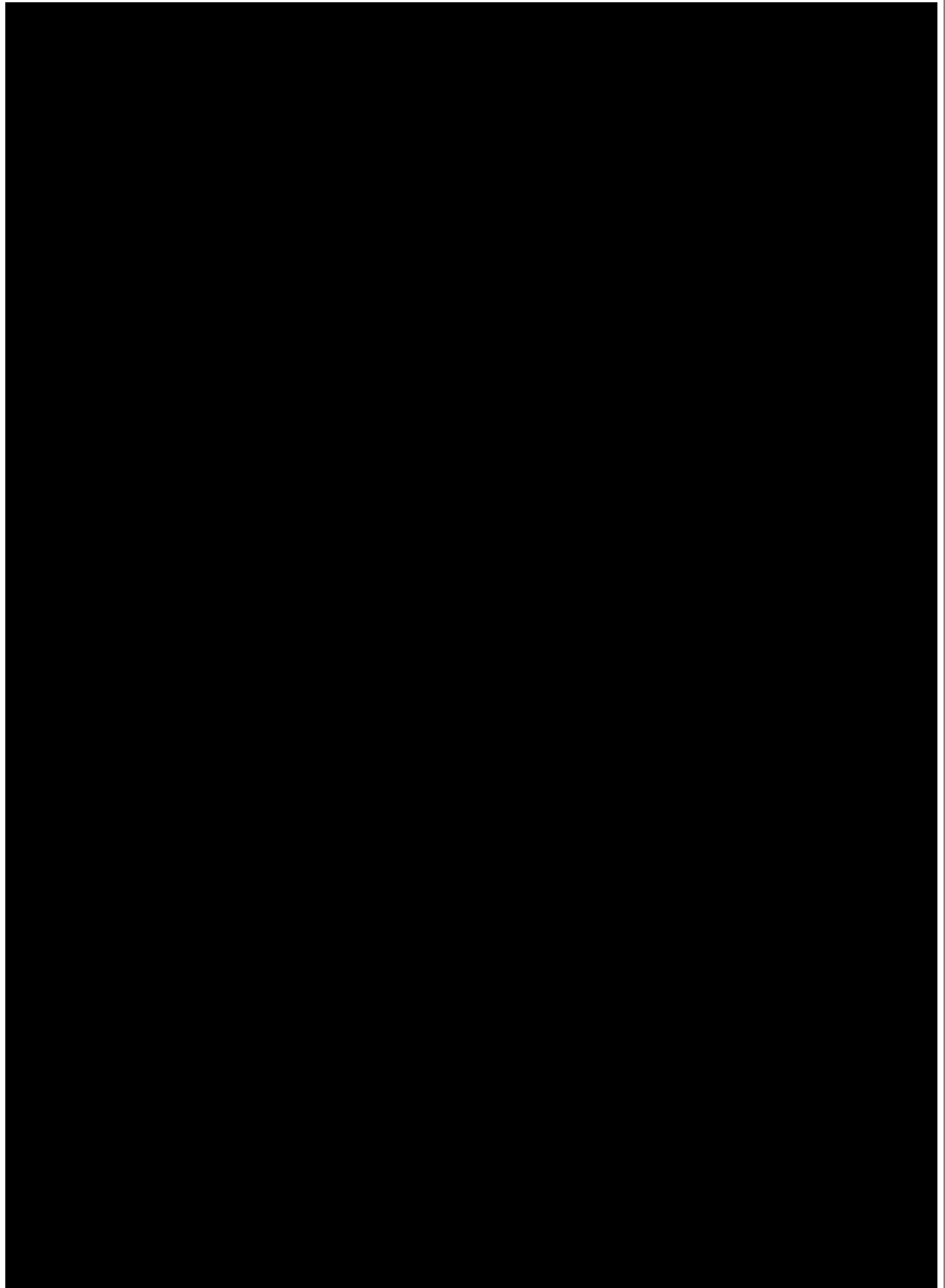
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1           Q.       (By Mr. Cross) So are you aware that  
2 SullivanStrickler took the data that they copied from  
3 the election equipment in Coffee County in January of  
4 2021 and loaded that onto a ShareFile site on the  
5 Internet?

6           A.       It was an FTP, I believe. That's my  
7 understanding. Yes.

8           Q.       Yeah. It's -- It's a third-party company  
9 that's provides a cloud service called ShareFile?

10          A.       Yeah. Yes.

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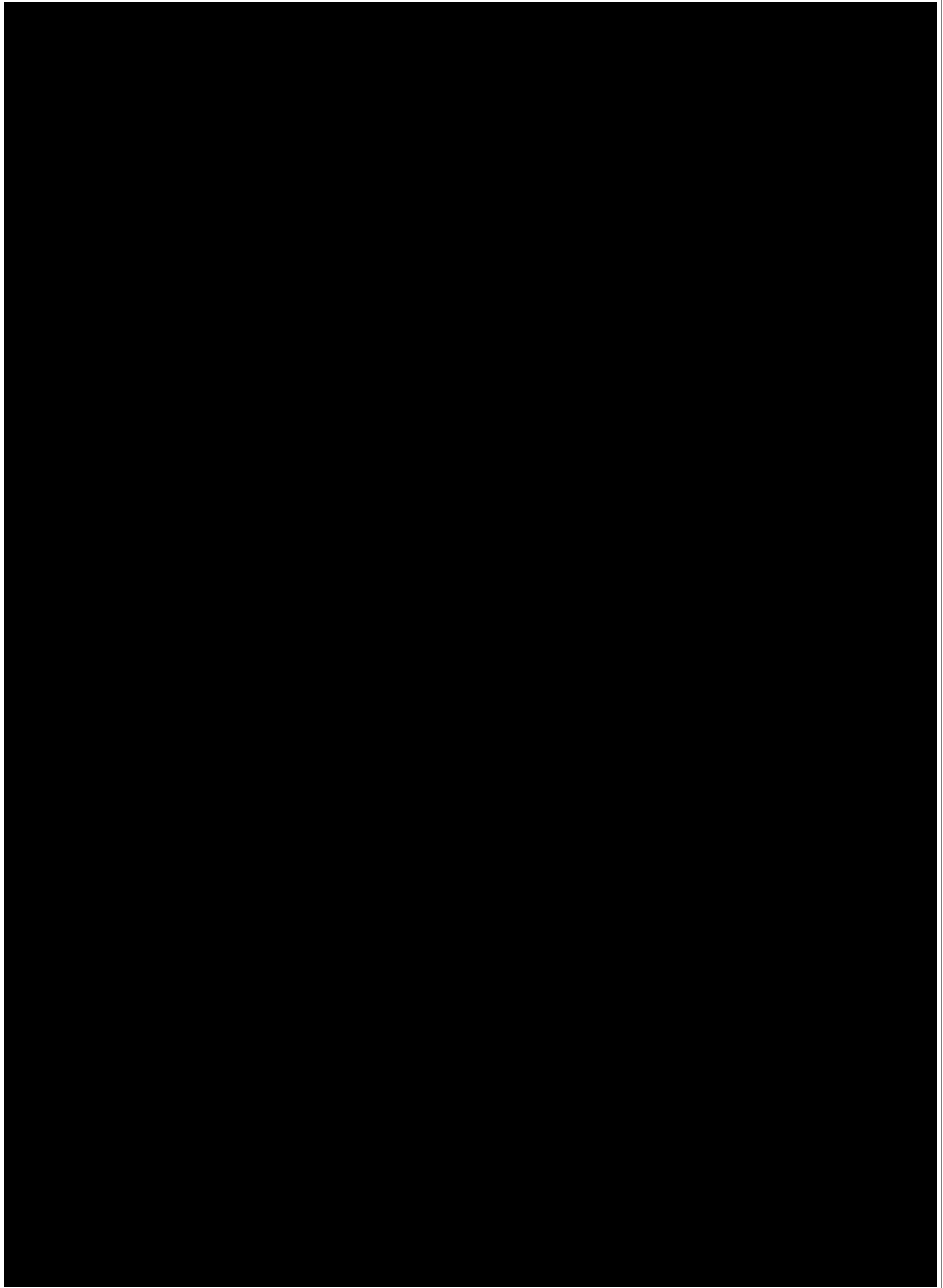
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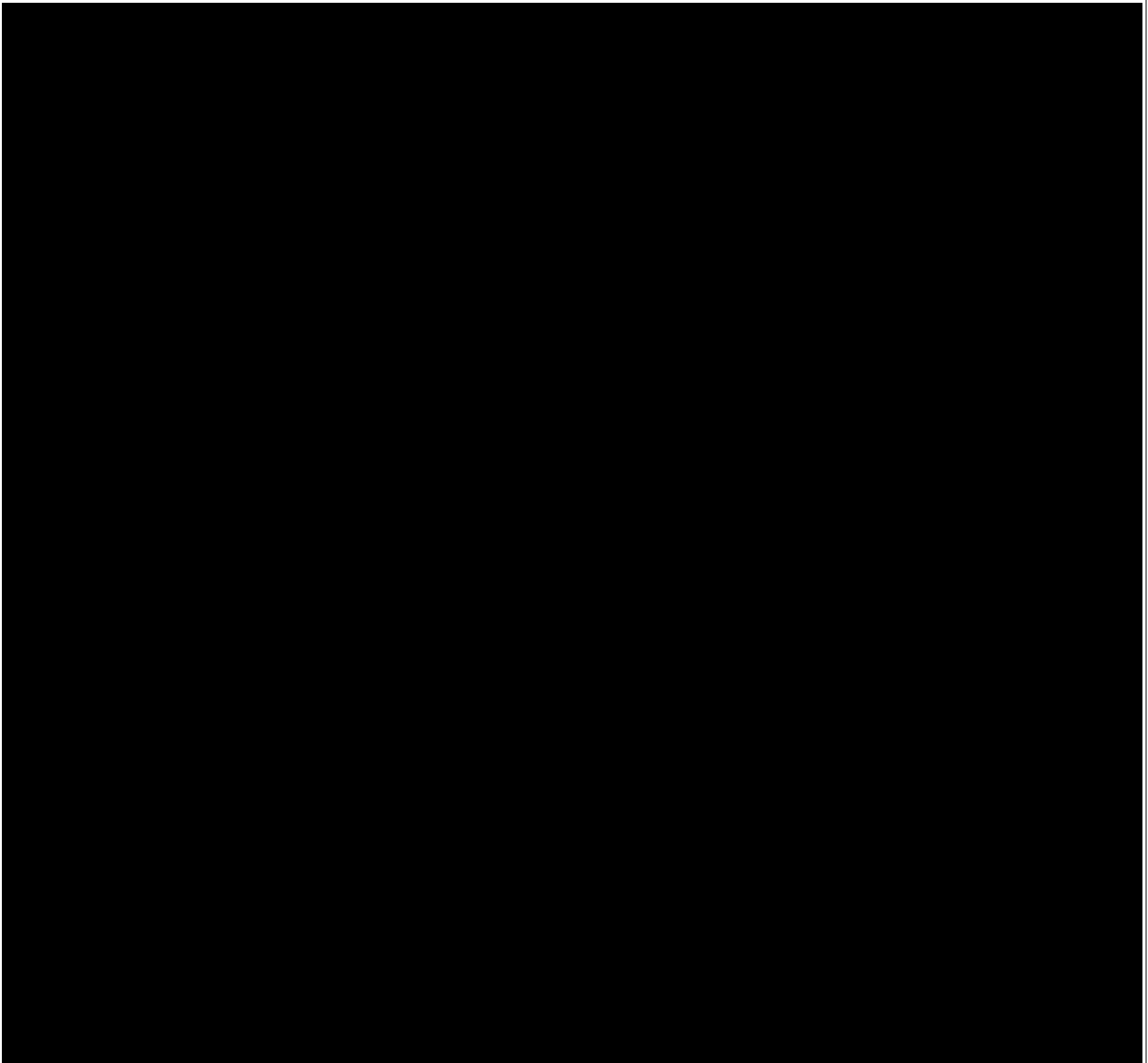
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Q. Has the Secretary's Office, Mr. Persinger, or otherwise examined the SullivanStrickler data to determine what, if any, PII was on that -- that -- in their data set?

MR. TYSON: And I'm going to instruct you not to answer as to work product anything that the communications the attorneys and Mr. Persinger.

1 THE WITNESS: Then I'm not comfortable  
2 answering that at all, because I think --

3 We knew from our end the only thing  
4 available would have been what I just described,  
5 that there was no other thing on a Poll Pad to  
6 give. Only the Poll Pads only received that  
7 stuff as they are separate and apart from the  
8 voter registration system.

9 THE COURT REPORTER: Give me a second.

10 MR. CROSS: Sure.

11 THE COURT REPORTER: Okay.

12 MR. CROSS: Okay?

13 THE COURT REPORTER: Okay.

14 THE WITNESS: Duncan causing problems.

15 Q. (By Mr. Cross) Do you know whether anyone  
16 has determined if dates of births for voters were  
17 included in the SullivanStrickler dataset?

18 A. I don't know if they had independently of  
19 that, but the data on the Poll Pads would have had  
20 the full date of birth. That's the statement I'm  
21 making.

22 Q. Got it. Okay. And just to talk about the  
23 encryption, you said there's an original encryption  
24 that's on the Poll Pads themselves, right?

25 A. It's native to the Poll Pad environment.

1 Yes.

2 Q. But you understand that Miss Hampton  
3 provided the passwords for all of the equipment that  
4 SullivanStrickler copied, right?

5 A. Yes.

6 Q. Okay. And then you said there's a second  
7 level of encryption from SullivanStrickler. But you  
8 understand that SullivanStrickler provided log-in  
9 information to a variety of people?

10 A. I have no way of knowing that.

11 Q. You're not aware that SullivanStrickler  
12 provided log-in information to Doug Logan and Jeff  
13 Lenberg?

14 A. When you say a number of people, I know  
15 that they were part of that. I'm using it -- I'm  
16 using that as -- as a single unit, as opposed to --  
17 In my mind, my big concern was out in the wild versus  
18 people we already knew who have it kind of thing, and  
19 they can break it down.

20 I -- I see what you're saying, but  
21 essentially, my -- my -- I was asking the question  
22 of: Could Random Person X go get this and then get  
23 into all that stuff who -- who might have even worse  
24 intentions potentially?

25 That was like -- that was -- That was the

1 nature of my questioning of Mr. Persinger on that  
2 front.

3 Q. You were talking to Mr. Persinger about  
4 someone who would not have either the original  
5 passwords for the Poll Pads or the SullivanStrickler  
6 log-in credentials?

7 A. The -- the -- The back-to-back part of  
8 that, yes.

9 Q. Okay.

10 A. And all the -- I also had talked to David  
11 Greenwalt, who's with Poll Pad, so we could all kind  
12 of meet to -- I would be talking my election  
13 administrative language. He could talk technical  
14 language, election administrative, and -- and  
15 technical --

16 THE COURT REPORTER: I'm sorry.

17 THE WITNESS: -- to technical.

18 Sorry.

19 THE COURT REPORTER: He could talk?

20 THE WITNESS: He could talk -- Mr.  
21 Persinger could talk technical language to Mr.  
22 Greenwalt. Mr. Greenwalt could translate  
23 technical language to -- election kind of  
24 technical language to my election understanding  
25 so that we were not talking past one another.

1 Q. (By Mr. Cross) Who is Mr. Greenwalt?

2 A. He is -- He works for Poll Pad. It's a  
3 company called KNOWiNK --

4 Q. KNOWiNK. Right.

5 A. -- out of St. Louis. But he is stationed,  
6 I believe, in metro Atlanta; or he travels here  
7 enough to where it feels like he's stationed here.

8 Q. And what is KNOWiNK's involvement in any  
9 investigation that's been done or ongoing?

10 A. I know that --

11 This could go to -- Yeah.

12 MR. TYSON: Yeah. Well, kind of -- I'm  
13 trying to think how this fits, David. I think  
14 that this may touch on investigative privilege.  
15 I think we could --

16 He can testify that they are involved to  
17 some degree; but the specifics of how they're  
18 involved, I don't -- I think we're going need  
19 to do investigative privilege over that.

20 THE WITNESS: And I couldn't even --

21 MR. TYSON: Yeah.

22 THE WITNESS: -- speak specifics. I can  
23 just say they are involved.

24 MR. TYSON: Yeah.

25 THE WITNESS: But they kind of work with

1           Persinger. Say this is what this does. This is  
2           what that does kind of thing.

3           Q.       (By Mr. Cross) Okay. What is Mr.  
4           Greenwalt's first name?

5           A.       David.

6           Q.       David. Can you tell me when KNOWiNK was  
7           first alerted to the unauthorized access in Coffee  
8           County?

9           A.       I can probably go back and look, but it  
10          would have been around all the same time we finally  
11          figured out, so probably July-August range in that --

12          Q.       Okay.

13          A.       -- I believe when they first would have  
14          known.

15          Q.       Of this year?

16          A.       Yes.

17          Q.       Do you know when Dominion first learned  
18          about the breach in Coffee County?

19          A.       Again, I'm making the assumption it'd be  
20          around the similar time that we discovered it, which  
21          would have been that July; and then it was coming off  
22          of July 4th holiday; and then we had to confirm. It  
23          was somewhere in that range of probably mid to late  
24          July.

25          Q.       Okay.

1           A.       Although I think it was relatively  
2       quickly. We said, guys, we -- There is a situation  
3       that we've discovered from our own internals. Look  
4       at this.

5           Q.       Well, right, I mean, we -- we know --

6                    I guess what I was trying to figure out  
7       when -- when Nicole Nollette came in on April 11th,  
8       was she there, in part because of the -- the  
9       unauthorized access concerns that had come to light  
10      with the Scott Hall call?

11          A.       She wasn't there because of that itself.  
12      She added on something else to her trip. She was  
13      doing work with Fran Leathers, who had been hired  
14      as -- as a Dominion rep, and they were going -- doing  
15      some sales calls and stuff.

16                  So she was there then. While you're here,  
17      can you see if you can get into this thing, because  
18      of the claim that we saw in the -- come out of the  
19      deposition that I did.

20          Q.       Do you know whether anyone in the  
21      Secretary's Office or at their direction has talked  
22      to Dominion about whether they were aware of the  
23      breach earlier than that?

24          A.       I don't -- When we had discussions, I  
25      mean, about this, as I said, starting from when it

1 was first brought to us in February, at the end of  
2 February, our position was given the people involved  
3 and the claims involved, this seemed like it was  
4 another false flag --

5 Q. Uh-huh.

6 A. -- fake pile of stuff.

7 So we said, hey, this claim is there. Run  
8 it up the flagpole, so, you know, it out there kind  
9 of thing; but it was sort of a -- I will tell you  
10 that we didn't think there was probably anything  
11 there, given that the people involved and --

12 So we said be aware of it; but, again, we  
13 need to go through the investigation to show this, so  
14 that's why we need to get into the server. So that  
15 was kind of -- They were in that same timeframe.

16 It was like okay. Let's look into this,  
17 'cause this is a real thing. We've got -- have to  
18 look at it now, because it's been claimed publicly in  
19 a way that's, you know, even though we know the  
20 players here have -- have been historically full of  
21 crap. So it was Scott Hall and -- and then, of  
22 course, with Miss Marks, and then knowing --

23 I didn't understand at the time; but,  
24 again, our take on it was it's probably -- We have  
25 to go through this investigation to show that nothing

1 happened and -- Or and if it did, then we need to  
2 really know, so that was kind of our position we were  
3 in at that point.

4 Q. Right. And sorry. And I was asking a  
5 narrower question, which is: Do you know whether  
6 anyone has -- anyone has spoken to anyone at Dominion  
7 to determine whether they have any knowledge about  
8 the potential breach before the Scott Hall call was  
9 disclosed to you guys?

10 A. I lost the script on that question. My  
11 point in saying it that way was we all kind of had  
12 the same indication.

13 And I believe our relationship with  
14 Dominion would be like, well, we had heard some --  
15 They would have said something to us had they been  
16 aware, but a specific question was not asked of like  
17 have you heard about this before --

18 Q. Uh-huh.

19 A. -- because that's not how you communicate  
20 something like that with a partner on something on  
21 that sort of front.

22 Q. No. I -- I -- I get that you -- you  
23 expect that they would have told you. But I just  
24 want to make sure that you're not aware of any  
25 communications anyone for the Secretary's Office with

1 anyone with Dominion asking the question -- did you  
2 have any inkling or awareness of the breach before  
3 the Scott Hall call?

4 A. The specific question phrased that way in  
5 that timeframe, no. But I'm not going to say we were  
6 laughing about it to a degree, but that's sort of the  
7 tone. You're saying like, god, it's another one of  
8 these damn things. At least that's sort of -- That  
9 was sort of the tone of conversation.

10 And if it had been something different, I  
11 believe it -- my --

12 If we asked the question and they had said  
13 no, that would be one thing; but if we discussed it  
14 and they said no, that would have been, if they did  
15 know, then a lie by omission, because I believe --

16 But I don't -- I don't believe that is  
17 the case, and so it didn't occur. Say, hey, did you  
18 know about this beforehand so --

19 Q. Do you know whether Dominion has ever  
20 threatened any litigation against Coffee County or  
21 the Board of Elections involving the breach?

22 A. I do not know.

23 Q. Do you know whether there's been any --  
24 any invest -- we --

25 Take a step back. You were talking about

1 earlier about whether there could be access to the --  
2 the Coffee County data, the Dominion data that was  
3 loaded to the SullivanStrickler ShareFile site. You  
4 talked that through with Mr. Persinger.

5 Are you aware of any investigation into  
6 whether that type of access has occurred?

7 A. Specifically, I talked to Persinger about  
8 one specific part of that. Not about all of it.

9 I've asked the question through our -- or  
10 through legal counsel; and I said, well, if the --  
11 If there was a level of encryption put around the  
12 Poll Pad was it put around the other --

13 THE COURT REPORTER: I think there was  
14 a --

15 THE WITNESS: A level of encryption put  
16 around the Poll Pad data, could not have been  
17 the same thing done for the other stuff.

18 And then they said we don't know. That's  
19 part of the overall look that's being done.

20 GBI's on this now, so at that point, I'm kind of  
21 cut off from knowing anything beyond that.

22 Q. (By Mr. Cross) I see. So as you sit here  
23 today, you're not aware of any investigation that's  
24 been done --

25 Putting aside whatever the GBI is doing,

1     you're not aware of any investigation that's been  
2     done into whether the third parties, meaning someone  
3     other than authorized by SullivanStrickler, so  
4     someone other than SullivanStrickler saying here's  
5     your log-in credentials --

6             A.     Uh-huh.

7             Q.     -- whether someone else gained access to  
8     the Dominion software that sat on their shelf, I'll  
9     say.

10            MR. TYSON: Object to form.

11            You can answer.

12            THE WITNESS: Not from our side. But,  
13     again, GBI's taking lead on this.

14            Q.     (By Mr. Cross) Right.

15            A.     We're -- I don't -- Like we're kind of  
16     like not supposed to be doing anything else on this  
17     front, because they are the lead.

18            Q.     Okay.

19            A.     So even if we wanted to right now, there's  
20     a process that's underway right now.

21            Q.     Have -- Has anyone at the Secretary's  
22     Office examined the uploaded download file that  
23     SullivanStrickler provided for that -- that ShareFile  
24     site?

25            Have you seen that?

1           A.       I have not.

2                   And, again, you say the Secretary's  
3   Office. I believe attorneys may have. Mr.  
4   Persinger, who's obviously our person on that, may  
5   have; but I -- I -- I put a bright line between the  
6   people that we're -- like our attorneys and those  
7   guys doing it versus the Office doing it.

8           Q.       All right. Let me hand you --

9                   MR. CROSS: We're at 19?

10                  THE VIDEOGRAPHER: Yes, sir.

11                  THE WITNESS: I believe that's correct.

12           Yeah.

13                  MR. KNAPP: Yeah.

14                   (Exhibit 19 was marked for  
15   identification.)

16           Q.       (By Mr. Cross) Exhibit 19. This is Tab  
17   25.

18           A.       And you expect me to read this.

19           Q.       It is hard to see, but not really. No.  
20   I don't.

21

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8 Q. There's a lot of magic around that date,  
9 the same day Misty Hampton's -- Jil Riddlehoover are  
10 abruptly let go. The same day Mike Lindell flies in.  
11 I think it also may be the same day or pretty close  
12 to the same day that the surveillance video ends; and  
13 then, of course, this report ends.

14 Do you know whether anyone has  
15 investigated what, if anything, may have happened  
16 around or shortly after February 26th, for example,  
17 whether somebody else got access to the office that  
18 we don't yet know about?

19 A. Not that I'm aware of yet.

20 Q. Okay.

21 A. And you --

22 MR. TYSON: Go ahead. Finish your answer.

23 THE WITNESS: But, again, you -- you're  
24 putting these dates together like they were  
25 magic when sometimes they are coincidental.

1 I mean, it's one month from when Josh  
2 Blanchard was there. I mean, it's days from  
3 when Grover Simmons (ph.) got hired.

4 I mean, some of these things don't -- they  
5 are -- just because they're --

6 What's the phrase they say? Just because  
7 they're there doesn't mean they're related to  
8 one another. I can't remember the exact.

9 Q. (By Mr. Cross) Correlation is not  
10 causation?

11 A. Thank you.

12 So but I'm not aware of anything yet on  
13 that front; but, again, handing this off to GBI sort  
14 of sets us in a back seat on those things.

15 Q. Yeah.

16 A. So they may be look -- looking at that. I  
17 couldn't say.

18 Q. Okay.

19 MR. TYSON: And just to clarify, David,  
20 they -- GBI does have all the SullivanStrickler  
21 productions --

22 MR. CROSS: Okay.

23 MR. TYSON: -- as part of their  
24 investigation.

25 THE WITNESS: And was this all redacted on

1 the back or just happened to be black sheets?

2 Q. (By Mr. Cross) They're redactions.

3 A. Okay.

4 MR. BROWN: I think it was.

5 Q. (By Mr. Cross) Yeah. It involves other  
6 areas. I think principally Michigan.

7 A. Okay.

8 Q. And I guess one thing just to note. If  
9 you come down -- Come to the second page, if you can  
10 grab Exhibit 19 again.

11 A. Uh-huh. The second page being the one  
12 that ends in 138?

13 Q. Yeah. And then keep going -- Actually go  
14 to the page that ends in 140.

15 A. Okay.

16

17

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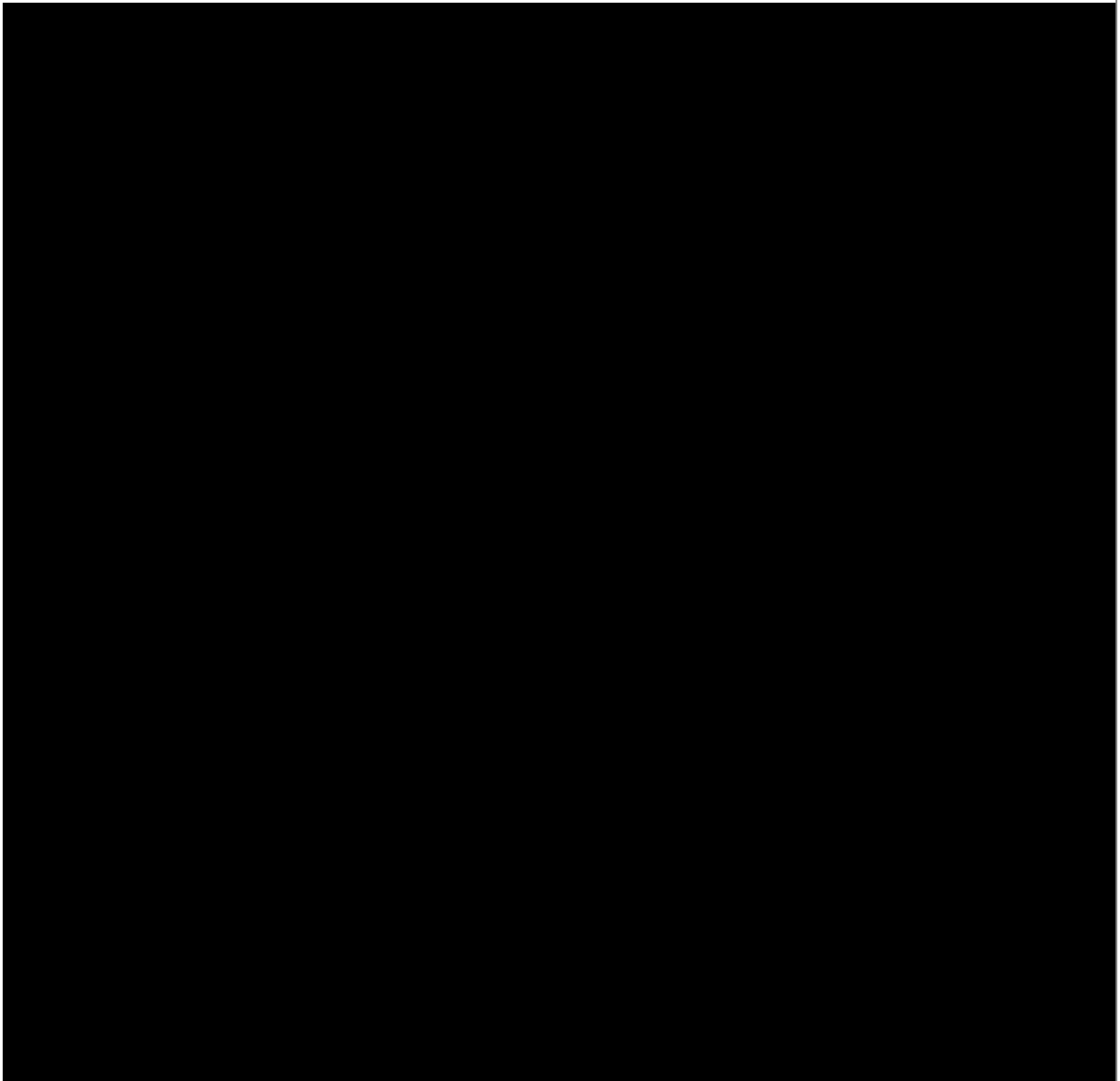
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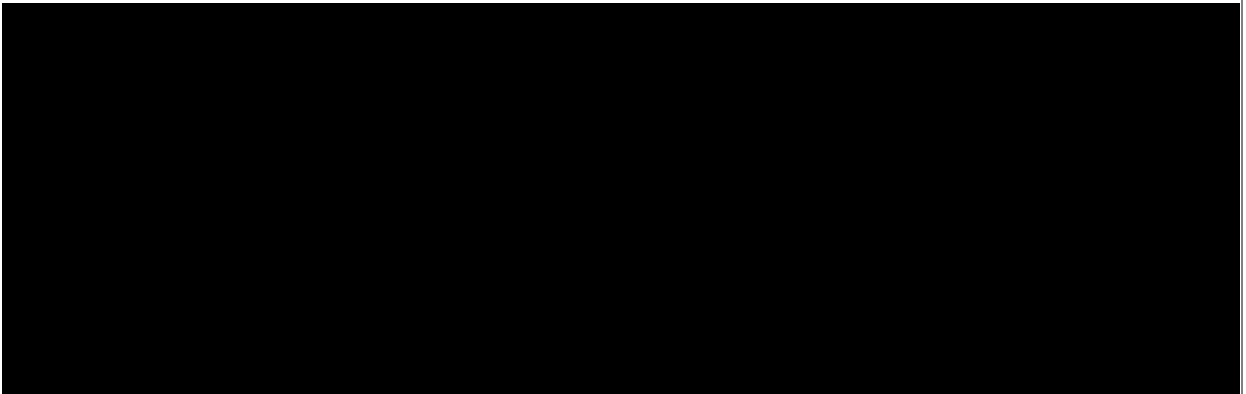
So in fact, it may have been part of the long-term thing, that the first thing, they would do was to go down there, now that we've gotten some of this information, and start trying to do that.

Q. And that directive from the GBI, was that -- was that in August of this year or September?

A. It would have been probably August, I

1 think, because our initial plan was to go down. If  
2 memory serves, they were going to go down from August  
3 8th to 11th, if memory serves from the discussions I  
4 had, so it was after the request.

5 And basically, I said okay. Y'all just --  
6 We've got this now.



13 Q. Let me hand you Exhibit 20.

14 (Exhibit 20 was marked for  
15 identification.)

16 Q. (By Mr. Cross) And that is Tab 31.

17 So Tab 31 is one of the e-mails that Paul  
18 Maggio produced to us pursuant to a order of the  
19 Court; and if you'll look at the top, you'll see it  
20 says Paul Maggio -- it's from Paul Maggio to  
21 Federalattorney@protonmail, copying Greg Freemeyer,  
22 also, SullivanStrickler on April 27th of 2021.

23 Do you see that?

24 A. Yes, sir.

25 Q. And if you come down to the middle of the

1 first page, do you see there's an e-mail from Paul  
2 Maggio addressed to Stefanie?

3 A. Yes, sir.

4 Q. And I will tell you that that  
5 Federalattorney@protonmail.com is a woman named  
6 Stefanie Lambert.

7 Are you familiar with that name?

8 A. I've heard it before in connection with  
9 this kind of discussion. Yes.

10 Q. Yeah. She's gained some notoriety or  
11 perhaps infamy in Michigan.

12 So if you look, you'll see that -- Come  
13 to the second page, the first e-mail in the thread.

14 A. At the bottom?

15 Q. Yes.

16 A. Okay.

17 Q. There's an mail from  
18 jpcomms2020@protonmail. Then you can see that's  
19 signed by Jim Penrose, if you look at the top of the  
20 next page.

21 A. Yes, sir.

22 Q. So Jim Penrose on April 22nd of 2021  
23 directs SullivanStrickler to send all the forensics  
24 material from Coffee County acquisition to the same  
25 address as before via FedEx.

1                   And then Mr. Maggio indicates he will do  
2     that.

3                   Do you see that?

4           A.     Yes.

5           Q.     And, again, just to explain the reason why  
6     I keep asking questions about the investigation; and  
7     I know the GBI's now doing their thing; but the --

8                   There's a window right between the Hall  
9     call coming to light in February of this year, the  
10    e-mails from May of last year --

11                   THE WITNESS: And I'm going to beg your  
12    indulgence on this one. I've been trying to  
13    hold it down till we got to a good stopping  
14    point, but I have to go first.

15                   MR. CROSS: Sure. No. Go ahead. That's  
16    fine. Take a break.

17                   THE VIDEOGRAPHER: We're off the record at  
18    3:04.

19                   (Recess from 3:04 p.m. to 3:11 p.m.)

20                   THE VIDEOGRAPHER: We're back on record at  
21    3:11.

22                   MR. CROSS: We're on the record.

23                   THE WITNESS: Oh, that's just mean.

24                   MR. CROSS: That was fun.

25                   THE COURT REPORTER: We're having fun.

1 MR. CROSS: That was funny.

2 THE COURT REPORTER: We're having fun.

3 MR. CROSS: Take your headphones off, and  
4 I was like wait something's going on here.

5 All right.

6 THE WITNESS: Did somebody just join or  
7 did we lose somebody? Again, we lost somebody  
8 so --

9 MR. TYSON: Lost somebody else.

10 THE WITNESS: So someone's going to come  
11 back.

12 Q. (By Mr. Cross) All right. So on Exhibit  
13 20 -- Oh, I -- I was saying to you --

14 A. Yeah.

15 Q. -- just so you understand the reason.

16 A. Uh-huh.

17 Q. So there's sort of a window of time before  
18 the GBI begins their investigation.

19 A. Uh-huh.

20 Q. And I understand you guys are asserting  
21 investigative privilege on that, so what I'm trying  
22 to understand is what investigation was done into  
23 certain things before whatever the GBI is doing.  
24 That's the purpose of those questions.

25 And so I understand the GBI may be doing

1 things that you either don't know about or can't get  
2 into, but that's just context for you.

3 A. Well, what we were doing potentially --  
4 I -- I touched on this for a moment -- was the chief  
5 investigator and the chief investigative counsel,  
6 Steven, like I said, they were setting up the  
7 investigators to go down there August 8 through 11,  
8 and kind of --

9 Q. Uh-huh.

10 A. They were putting together their plan. So  
11 this what we now specifically know. This is what we  
12 can do. This is who we would need to interview. So  
13 those -- those kind of things were all getting done,  
14 and they were preparing to go August 8th. And,  
15 again, all these things take time; and this isn't the  
16 only thing all these people are doing.

17 The one thing I want to make clear is the  
18 investigations isn't just elections investigations.  
19 They do PLB, the Professional Licensing Board  
20 investigations. They do corporate things sometimes.  
21 There are fraud things attached to some of the stuff  
22 that we do, attached to security.

23 So I mean, so they do many, many things.  
24 Now this is an important thing, but I just don't want  
25 anybody coming away thinking this is their sole focus

1 in life. They're doing all kinds of things, and  
2 we're short-staffed in both the investigative side  
3 and the legal counsel side, so what --

4 On the outside looking in, you might say,  
5 well, it took you days to do this. Coming off a  
6 holiday. Short-staffed.

7 How do we really want to do it the right  
8 way, so you want to make sure your ducks are in a  
9 row. You just don't go off half-cocked. So that's  
10 why they're being very deliberate in their process as  
11 we were moving forward.

12 And then by that point, once we're ready  
13 to go, GBI had specifically gotten the request; and  
14 we'd been talking to them; and like I said, we were  
15 going to do our own thing on that.

16 And -- And the one though that sticks out  
17 in my mind is going to verify they bought the pizzas,  
18 which I thought was -- But it's a statement of fact.  
19 They could line up or not line up with what you said  
20 so --

21 But that's the kind of stuff that they  
22 were doing; and then, obviously, August 2nd, the  
23 official request is sent; and they're accepted; and  
24 then we were -- They're basically saying don't do  
25 anything while we figure this out.

1 Q. Have you followed some of the press on  
2 this, like "Washington Post," "New York Times," "The  
3 Daily Beast" on the unauthorized access of Coffee  
4 County?

5 A. Now, obviously, I -- I read some of it.

6 Q. Yeah.

7 A. I don't -- If it's behind a pay wall, no;  
8 but I've walked the basics of it, of course.

9 Q. I think I -- My memory is that Jose  
10 Pagliery at "Daily Beast" actually obtained copies of  
11 the -- the pizza receipt from January 7th, 2021.

12 A. That rings a bell vaguely on that thing;  
13 but, again, having gone through this process now just  
14 because somebody claims to have a specific thing --

15 Q. Uh-huh.

16 A. -- we have to independently verify those  
17 kind of items, so that's the rationale for some of  
18 those things.

19 Q. All right. Let me hand you Exhibit 21.

20 A. Are we done with 20?

21 Q. Yes.

22 A. Okay.

23 (Exhibit 21 was marked for  
24 identification.)

25 Q. (By Mr. Cross) Sorry. I can't remember

1 if I asked you before the break. Are you -- before  
2 whatever --

3 Again, sort of putting aside the GBI  
4 investigation, whatever may be going on there --

5 A. Yeah.

6 Q. -- are you aware of any investigation into  
7 who the recipients were for any hard drives  
8 SullivanStrickler sent the Dominion data on?

9 A. No. We haven't done that --

10 Q. Okay.

11 A. -- yet.

12 Q. All right. All right. Take a look at  
13 Exhibit 21, if you would; and this is Tab 26.

14 So this is an e-mail from my --

15 THE WITNESS: Hold on a second.

16 MR. CROSS: Oh.

17 THE WITNESS: You got it? Duncan causing  
18 problems again.

19 MR. BROWN: Mentor. Mentor's things.

20 Q. (By Mr. Cross) But this is my -- This is  
21 an e-mail from my mentor, the person that made me  
22 what I am --

23 MR. CROSS: You may not want to take  
24 credit for this.

25 THE WITNESS: Is that credit or blame?

1           How do you spell --

2                   MR. CROSS: I know.

3                   THE WITNESS: -- it, right?

4                   MR. CROSS: Exactly. He's going to regret  
5           that.

6           Q.       (By Mr. Cross) This is from Bruce Brown,  
7   Exhibit 21, an e-mail sent to counsel on this case,  
8   sent July 27, 2022.

9                   And you'll see that he -- he indicates  
10   that on a public Internet site, there appears to be  
11   Coffee County's November 2020 cast vote records in  
12   JSON format. That's J-S-O-N. Based on the file  
13   date, the files appear to have been created --

14           A.       Hold on a second. Okay. You said  
15   November. I see January. I don't see November.

16                   Am I --

17           Q.       No, no.

18           A.       -- reading that right?

19           Q.       You're reading -- Does it say a date on  
20   it?

21                   Yeah. So if you'll read the very first  
22   paragraph.

23           A.       Okay. 'Cause I was looking at the date  
24   sent. I apologize.

25           Q.       Yeah, yeah.

1 A. Okay.

2 Q. Sorry.

3 A. Okay. In JSON format. All right.

4 Q. Right.

5 A. Yes, sir.

6 Q. He goes on to say based on the file date,  
7 the files appear to have been created and acquired  
8 for publication long before JSON format Cast Vote  
9 Records were permitted to be released as public  
10 records by the Secretary of State. The files dated  
11 February 17, 2021 are posted at this has website.

12 Do you see that?

13 A. Yes.

14 Q. And, again, putting aside whatever the GBI  
15 may be doing today, are you aware of any  
16 investigation into these files, the providence,  
17 access to them, anything about them?

18 A. Me specifically on this, no. I don't.

19 Q. Okay. Were you aware that individuals who  
20 received log-in credentials for the ShareFile -- I'm  
21 sorry.

22 A. I'm sorry. You can keep going with this  
23 thing.

24 Q. No. I just -- Yeah. Okay.

25 Were you aware that individuals who

1 received log-in credentials from SullivanStrickler  
2 for the ShareFile site that had the Dominion data on  
3 there, that they would sometime share those log-in  
4 credentials with other folks?

5 Have you heard that before?

6 MR. TYSON: I'll object to form.

7 THE WITNESS: No.

8 Q. (By Mr. Cross) So you've not heard --  
9 You've not heard before today of a Ben Cotton --  
10 Well, let me back up. Are you familiar  
11 with Ben Cotton?

12 A. Yes.

13 Q. You understand Ben Cotton is someone who's  
14 testified that he actually did analysis of the  
15 Dominion software obtained from Coffee County?

16 A. Yes.

17 Q. And were you aware that he testified in  
18 his deposition that he was provided SullivanStrickler  
19 log-in credentials by Jim Penrose, meaning he said he  
20 used Jim Penrose's credentials to get access to the  
21 site?

22 A. As a specific, I wasn't aware; but it  
23 comports with what I understand. Yes.

24 Q. Okay. So, again, putting aside whatever  
25 the GBI may be doing, are you aware of any

1 investigation into the sharing of the log-in  
2 credentials from SullivanStrickler with individuals  
3 SullivanStrickler had not authorized to access that  
4 site?

5 A. Again, given the timing of this, no.

6 Q. Okay. So one of the things that occurred  
7 in the -- the breach in January of 2021 was also  
8 scanning of ballots, paper ballots. Were you aware  
9 of that?

10 A. Yes.

11 Q. And were you aware that an external  
12 scanner, generic scanner was brought in to help with  
13 that?

14 A. No. I was not aware of that. Or I might  
15 have been aware of it, but I don't recall being aware  
16 of that.

17 Q. Are you aware of any --

18 Again, putt aside the GBI, are you aware  
19 of any investigation into the involvement of Cathy  
20 Latham or anyone else to bring a generic scanner into  
21 the office for the purpose of scanning ballots in  
22 January of 2021?

23 A. There -- In that time window there, I  
24 believe that there was some discussion around that;  
25 and going back to a -- a certain part of this, I do

1 not -- I'm not sure that these were actual ballots.  
2 They were ballot types, or I don't know if they were  
3 the actual ballots from those things, because that  
4 would have required getting them at that point, since  
5 it should have already been transmitted, I believe --  
6 the timing's close -- to the Superior Court, so I  
7 don't know if they were live ballots or not.

8 Similar like to the video that Misty had  
9 made where she used basically dummy ballots or  
10 ballots of older elections to kind of show off some  
11 of those things.

12 So, again, I don't know the answer to  
13 that.

14 (Exhibit 22 was marked for  
15 identification.)

16 MR. CROSS: All right. 22?

17 THE VIDEOGRAPHER: Yes.

18 Q. (By Mr. Cross) All right. Let me hand  
19 you Exhibit 22. This is Tab 43.

20 Actually, sorry.

21 A. Uh-huh.

22 Q. Do you recognize -- sorry -- Exhibit 22 as  
23 an e-mail, a cover e-mail attached to a -- a draft --  
24 well, I don't know if it's a draft -- attached to an  
25 engagement agreement for forensic collection and

1 preservation in Spalding County for  
2 SullivanStrickler?

3 A. Yes, sir.

4 Q. And the date on the agreement is August  
5 17, 2021.

6 Do you see that?

7 A. And it comports with the date of the  
8 e-mail itself. Yes.

9 Q. Right. What can you tell me about any of  
10 investigation into the circumstances of  
11 SullivanStrickler potentially being engaged to do  
12 forensic collection of voting software and data in  
13 Spalding County?

14 A. An investigation has been opened. Once  
15 this was brought to light, it was sent to the State  
16 Election Board Chairman. He brought it to our  
17 attention. I believe we gave you the -- the case  
18 number for it earlier when we checked in with our  
19 office.

20 I know it is ongoing. I don't want to  
21 speak to where they are in it, 'cause I don't know  
22 specifically to say yes or no.

23 But so far, says it doesn't appear that  
24 anything happened at this point; and again, it's my  
25 understanding that the county attorney basically, for

1 lack of a word, put a kibosh on this once they were  
2 kind of asked about it. That's my understanding of  
3 where it is, but they're going to verify and see who  
4 saw all of this.

5 Q. What's the name of that county attorney?

6 A. I do not recall.

7 Q. Okay. When did the Secretary's Office  
8 first learn about this effort?

9 A. As I understand it, when it was sent to  
10 the State Election Board Chairman; and he brought it  
11 up. I don't know if it was at -- It was before the  
12 meeting, he informed us about the -- He had  
13 questions about this, and so I couldn't speak to  
14 exactly when it was, but it was sometime, give or  
15 take a week or so, before --

16 I mean, it would have been in September  
17 probably; or late August, early September would be my  
18 understanding of how that occurred.

19 Q. So how did -- how did the Secretary's  
20 Office first learn that there was a -- a possible  
21 compromise or breach in Spalding County?

22 A. I don't think we did learn there's a  
23 possible compromise or breach.

24 We learned that SullivanStrickler was  
25 talking to the -- the elections board about this and

1 their elections director.

2 Q. Right. And sorry. I don't want to trip  
3 over the language. Let -- Let me just ask another  
4 question.

5 Whatever is -- Whatever's contemplated in  
6 Exhibit 22, with SullivanStrickler, however one wants  
7 to describe it, how did the -- Well, how did the  
8 Secretary's Office first learn about that?

9 A. When the documentation was -- 'Cause I  
10 understand it was the documentation was sent to the  
11 election board chairman.

12 Q. How did the electric board chairman get  
13 that documentation?

14 A. Via e-mail, I believe.

15 Q. From whom?

16 A. I don't recall the individual, but it's  
17 basically saying this is an issue I'm concerned with,  
18 and he sent it up there.

19 We can find out. I just -- I'm not sure  
20 who it was. It was someone in Spalding County,  
21 obviously; but I couldn't tell you who exactly.

22 Q. So someone alerted -- Is it Judge  
23 Duffey --

24 A. Yes. Correct.

25 Q. -- in -- in September of this year?

1           A.     Yeah. I -- I couldn't speak when he got  
2     it; but, I mean --

3           Q.     I see.

4           A.     -- it might have been late August, early  
5     September; but I remember discussing it early  
6     September, I believe, was the first time I heard  
7     about it; but, again, the days are going to be kind  
8     of tight up on each other for that.

9           Q.     Okay. And so Judge Duffey received the  
10    e-mails here and the cover and the engagement  
11    agreement and then alerted the Secretary's Office and  
12    the GBI, and there's now an investigation?

13          A.     I know he alerted our office. I'll make  
14    an assumption he alerted the GBI.

15          Q.     I see.

16          A.     I don't know.

17          Q.     Okay. I was going to ask.

18                 Do you know -- It's something you don't  
19    know, but I'll ask.

20          A.     Uh-huh.

21          Q.     Do you know whether the GBI itself is also  
22    investigating whatever circumstances were  
23    contemplated in Exhibit 22?

24          A.     No, sir.

25          Q.     Okay. You just don't know one way or the

1 other?

2 A. I just don't know one way or the other.

3 Q. Okay. It -- A couple quick questions on  
4 this.

5 A. Uh-huh.

6 Q. If you look at the e-mail from Ben  
7 Johnson, to Roy McClain --

8 A. Is that the very first one on Page 1?

9 Q. Yes, sir.

10 A. Okay.

11 Q. It states iPhones - retrievable but  
12 costly - these would fall under litigation hold, but  
13 as long as we don't wipe them or use them, the data  
14 is there.

15 Do you understand that -- I mean, from  
16 what we've been able to tell -- And you can go  
17 through the e-mails. Do you have any insight into --  
18 into what litigation was pending against the County  
19 for -- for the effort that was contemplated here?

20 A. Honestly, I don't know. I think  
21 there's --

22 From from my reading of it, it looks like  
23 they are comporting all state litigation. There  
24 should be litigation holds on everything, but they --

25 They look like they were referencing

1 something specific, but I don't know what it is.

2 I mean, on some levels, some of this looks  
3 like legitimate discussions between elections board;  
4 and it's kind of saying, well, how do we do what we  
5 need to do in a proper way.

6 Well, these guys seem like they -- they  
7 know what they're doing, and I don't know where that  
8 relationship started. I would love to be able to  
9 know where that relationship started, on what side,  
10 if somebody found a business card, or they had  
11 reached out at some point.

12 But, again, I'll tell you my own -- in my  
13 brain, I say this could have been somebody trying to  
14 say how can we justify it properly to do something  
15 like this; and that was where being around this stuff  
16 and watching people act, that's my gut reaction; but  
17 I -- I can't prove that one way or the other. There  
18 has to be an investigation, which our office is  
19 doing.

20 Q. For -- For a county to copy voting --  
21 Dominion software from voting equipment, would it  
22 require State authorization for that?

23 MR. TYSON: I'll object to form.

24 Answer, if you know.

25 THE WITNESS: I believe so, but I do know

1           this. That if they do something like that, it  
2           could then interfere with a potential  
3           warranting of the --

4           Q.       (By Mr. Cross) Uh-huh.

5           A.       -- equipment as well, which would be a not  
6           smart thing to do.

7                   Whether it's a specific violation of SEB,  
8           I think it is. I'm pretty sure it is.

9                   But I -- I don't want to say it  
10          specifically. Yes. Absolutely it is.

11                   But sort of in the universe of data  
12          security and EMS security, nobody, third party is  
13          supposed to be brought into those things, into the  
14          EMS area without authorization.

15                   So yeah. Yes. I can -- I can say that  
16          pretty straightforwardly.

17          Q.       And -- and --

18          A.       Sorry to talk myself through the process  
19          to get there.

20          Q.       And fair to say that the events, as -- as  
21          you know them currently that -- that played out in  
22          Coffee County at the elections office in January of  
23          2021, the access we know that was -- that occurred  
24          there and the copying, all of that would have  
25          required authorization by the State?

1           A.       To have been done legally, yes.

2                   Even then I still think we don't just get  
3 to waive SEB rules or laws. I mean, we -- You have  
4 to say, SEB, can we allow something like this?

5                   And they would have to say, yes, just in  
6 this particular incidence; or there has to be an  
7 investigatory rationale for doing something like that  
8 through our -- through the open official  
9 investigation as chief election officers  
10 investigators.

11                  There's -- There's paths to do it, but  
12 there was no path available for the way it was done  
13 from what everything I know right now.

14           Q.       I -- I think this might be clear, but  
15 just to make sure. Do I understand correctly that,  
16 again, apart from whatever the GBI may now be doing  
17 since it was formally brought in, in August, there  
18 were not, at least prior to that time, any  
19 investigative interviews of anyone about whether  
20 there had been an unauthorized access in Coffee  
21 County in the January 2021 timeframe?

22           A.       There had not yet. As, again, I guess  
23 going back -- I'm doing a call back to a previous  
24 answer where Mr. Germany, in -- in discussions with  
25 the office investigator, said let's get specific

1 facts down first before we interview anybody, because  
2 as we know already, Miss Hampton was prone to not  
3 tell the truth. So we wanted to have binary things  
4 that she would either know or not know, and we could  
5 verify or not verify what she knew when she was  
6 discussing it. Or any of the other people down there  
7 who potentially be part of it.

8 As you -- As was you pointed out, at  
9 least one of their election board members was on the  
10 same front. His name escapes me right now.

11 Q. Eric Chaney.

12 A. Thank you. Eric Chaney, who's no longer  
13 on the board, so interviews were not going to --

14 The plan from the beginning was we weren't  
15 going to do interviews with them until we had  
16 specific things to interview them about that we could  
17 prove or disprove without their knowledge or would  
18 their having to say yes or no on that, that they  
19 can -- We can hold them to account.

20 As an example, we originally did not want  
21 to know, have out in the world what device was  
22 plugged in, so I'm not happy that that is now out in  
23 the world, because now that's a specific thing we  
24 can't use to leverage and say what was it that they  
25 plugged in. Those kind of things. That was the

1 intent behind that.

2 If they said it was a laptop, we would  
3 have said, no, it wasn't a laptop. It was it, or  
4 whatever those kind of things are, you know, so --

5 Q. So in -- in Mr. Beaver's deposition, he  
6 talked about how the Secretary's Office has a  
7 specific -- specific what he called incident response  
8 plan for a breach like this.

9 Why wasn't that incident response plan  
10 followed here, you know, once this was raised as a --  
11 as a possible concern?

12 MR. TYSON: And I'll object to form.

13 Do we have that we can put in front of  
14 him, 'cause his answer and response have been  
15 related to servers. I'm trying to recall from  
16 Merritt's testimony.

17 MR. CROSS: Yeah. You're welcome to look  
18 at the testimony.

19 MR. TYSON: Okay.

20 MR. CROSS: We can mark it.

21 22?

22 THE VIDEOGRAPHER: 23.

23 (Exhibit 23 was marked for  
24 identification.)

25 MR. CROSS: 23.

1 THE WITNESS: Do you know what page I'm  
2 looking at, Mr. Cross?

3 Q. (By Mr. Cross) Yes. Pages 418 --

4 A. Do you know what line we're starting at?

5 Q. Yeah. Start at 418 at the bottom at Line  
6 23. It goes on to all of 419. He talks through the  
7 incident response plan.

8 MR. BROWN: What tab is it?

9 Q. (By Mr. Cross) So the question --

10 MR. BROWN: What tab?

11 MR. CROSS: Oh, sorry. I'm in Tab 75.

12 MR. BROWN: Thank you.

13 Q. (By Mr. Cross) So the question was: Are  
14 there protocols --

15 A. Will you give me a moment to read, and I'm  
16 I can catch up on it.

17 Q. Yeah. I was going to read it for the  
18 record. You can read along.

19 The question was: "Are there protocols in  
20 place at the Secretary of State if there is a  
21 suspicion that there's been an unauthorized access of  
22 election software?"

23 And then he goes on there to describe an  
24 incident response plan.

25 A. Well, it looks like everything was

1 followed up to the point of where we're talking about  
2 bringing Fortalice, 'cause we thought we could bring  
3 in -- For us, an outside thing would have been all  
4 we need to do was to get into that and look at the  
5 log files. That's the first thing we needed to do.

6 So he jumped to the next level basically  
7 saying the outside thing, which we did with Persinger  
8 in this case, so I would say we did essentially  
9 follow what this says to do.

10 So I -- I disagree with the format of your  
11 question.

12 Q. So you think --

13 A. I mean, essentially, we did this. We  
14 said --

15 First, we have to say something happened;  
16 so we start to try to get in -- We try to get into  
17 the server. We try to get in the server.

18 Said this isn't working. Let's bring in  
19 Persinger. We got in server. We saw something  
20 happened.

21 We informed. You know, at this point, it  
22 was going to be Blake, me, and Ryan did that.

23 And then we would start our investigation;  
24 and the plan was, now that we know this, we can start  
25 doing this; and we -- Steven and the --

1                   Basically, we did all these things; and  
2                   Mr. Persinger was sort of the --

3                   We flipped one of them, I think, only  
4                   because we knew that the people we were dealing with  
5                   down there may not be forthcoming on these items.

6                   I mean, that's -- That's the way I'm  
7                   reading it, so it should go first thing we do is  
8                   collect information from that source.

9                   So when Persinger got in, we did that. We  
10                  got -- We found that.

11                  Often, we'll go to directly to  
12                  investigation that was research. Investigations  
13                  couldn't do research on a server like this. They  
14                  didn't have that skill set at the time. They  
15                  notified --

16                  Gabe Sterling and Ryan Germany were  
17                  notified once Mr. Persinger said, yes, something was  
18                  done here.

19                  Then we move on to the investigation side,  
20                  which, you know, we did that with hiring -- hiring  
21                  forensics with Mr. Persinger, and then we started  
22                  doing how do we get this stuff on the ground? As I  
23                  pointed out, they were putting together an  
24                  investigation plan. Steven Ellis, as I recall, were  
25                  working on -- kind of go through who do we interview,

1 in what order, and how do we set the questioning up  
2 so that we can make sure that they're telling the  
3 truth or not telling the truth. I mean, this was all  
4 essentially followed so -- .

5 And then we have contact with GBI. We  
6 contacted GBI. I mean, can you have some arguments  
7 about timing and what took so long on some of these  
8 things versus other stuff? Sure. But this looks to  
9 me like it was essentially followed.

10 So you're saying we didn't follow it. I'm  
11 saying we did.

12 Q. So when Chris Harvey learned about the  
13 Cyber Ninjas card and ask for an investigation by  
14 Miss Watson into whether there had been unauthorized  
15 access at that time, were you or Mr. Germany alerted  
16 to that?

17 A. Not that I recall. But, again, it was a  
18 little "i" investigation, as we pointed out before.  
19 Just kind of look into it and see what's there,  
20 'cause you have to triage some of these things given  
21 the volume of what we had.

22 Q. We talked about Ben Cotton before. He  
23 also testified that he analyzed Dominion's software  
24 from Fulton County.

25 Do you know what investigation, if any,

1 has been done into how he obtained Dominion software  
2 from Fulton County, assuming he's right about that?

3 A. I know that there was discussions; and,  
4 again, I don't know if it was little "i" or big "I"  
5 investigation; but we think he was confusing Fulton  
6 County, Georgia with Fulton County -- I think  
7 Pennsylvania or Michigan. I can't remember. 'Cause  
8 it -- I think they did get access up there, but not  
9 anything we saw in Fulton County, Georgia.

10 And, again, that was one of those. It  
11 wasn't -- It wasn't a case file set. It was sort of  
12 a discussion. Like from everything we're seeing, it  
13 looks like he's discussing this; and he just got  
14 confused when he was discussing it.

15 Q. Okay. Okay. Sorry.

16 Are you aware of any actual investigative  
17 steps, like interviewing people; accessing, examining  
18 equipment with respect to --

19 A. It wasn't --

20 Q. -- Fulton County?

21 A. -- examining equipment; but there were, I  
22 believe, discussions; and I couldn't speak to  
23 specifically who was interviewed, because we asked do  
24 we have any reason to believe this is the case.

25 And I can't remember exactly how that

1 process went, if Frances was still here or not, given  
2 the timing of when Mr. Cotton make the claim  
3 originally; but I remember we essentially came down  
4 to he must be talking about Fulton County,  
5 Pennsylvania; or I believe it was Pennsylvania but --

6 And I -- I can't speak to exactly why;  
7 but the people, the lawyers of -- on our side, the  
8 investigators essentially basically said this is what  
9 it looks like they're discussing, so no need to look  
10 into that any further; 'cause, again, we had no  
11 reason to believe Fulton stuff had been -- had that  
12 kind of thing happen to them.

13 And there was -- I believe there was some  
14 press coverage that something had happened in Fulton  
15 County, Pennsylvania, or Michigan, whichever that  
16 was.

17 Now trust me. I have a -- I have a  
18 history of holding Fulton County to account when they  
19 do something that's not helpful to the election  
20 systems so --

21 Are we done with these two, Mr. Cross?

22 Q. Yes.

23 A. Okay.

24 Q. You -- You mentioned earlier that there  
25 is ongoing discussion about whether to update the

1 Dominion Democracy Suite software to the new  
2 forthcoming version -- Is it 5.17?

3 A. Well, there's two separate things here.  
4 We were looking at trying to do a pilot, but we just  
5 didn't -- We ran out of time in one county with  
6 5.13, which would have addressed a lot of these  
7 things. 5.17 addresses --

8 Q. Can I ask a quick question on that.

9 A. Yea, sir.

10 Q. 5.13 does not use a QR code, right?

11 A. No. It's -- they both -- All their  
12 systems may use a QR code. This one, in the BMD  
13 configuration, has the ability to produce the  
14 full-face ballot, the full-face ballot being  
15 basically mirroring what appears to be a hand-marked  
16 paper ballot.

17 Q. With no QR code?

18 A. With no QR code. It still has the bar  
19 code in the corner, so the tick marks for the  
20 computer to line up. I think the same systems for  
21 counting and tabulating as before, which the QR code,  
22 again, does -- acts in the same manner.

23 So the 5.13 does not -- has the ability to  
24 do both, and a 5.17 has the ability to do both. And  
25 5.13 addressed, I believe, most of the items

1 highlighted in Dr. Halderman's report, and 5.17 does  
2 that, plus a couple other bells and whistles I  
3 couldn't speak to you right now. I just know it had  
4 some additional changes to it.

5 Q. You said that there was discussion of  
6 piloting 5.13. When was that? When was the  
7 discussion?

8 A. The discussion was in the summertime. We  
9 were talking about actually -- That was part of the  
10 problem is we were talking about maybe piloting it in  
11 a -- I believe, the primary originally. We kind of  
12 ran out of time on that.

13 And then we said the risk is too high for  
14 a statewide general election to pilot anything like a  
15 new Democracy Suite, so we'll put that off for a  
16 minute; and then I remember having specific  
17 heartburn, going I don't mind being the leading edge.  
18 I don't want to be the bleeding edge on these things,  
19 'cause bleeding edge tends to where you find  
20 problems. I'd rather have some other jurisdiction to  
21 have done this.

22 And 5.13 has now been used I know for  
23 certain in Chicago and in Cook County. I think  
24 Chicago City jurisdiction runs that.

25 5.17 just got submitted three weeks ago or

1 so to the EAC certification; and it's up to them to  
2 make the decision whether they're going to read every  
3 line of code again or just the changes to the lines  
4 of code, I believe, is how that works, so we don't  
5 have a timeline on that.

6 We're operating on the assumption we can  
7 get it certified and -- but we can start the -- the  
8 process of loading everything, you know, as soon as  
9 we can, so we can have it in place for the March  
10 specials and stuff. Usually, on average, we have  
11 about 40 counties have to run those things. So when  
12 we're -- we do this all the time in measuring risk in  
13 looking at things.

14 Trying to push it out statewide in the  
15 statewide general election with Stacey Abrams and  
16 Bryan Kemp on top of the ballot and Herschel Walker  
17 on top of the ballot with every county in the state,  
18 the risk runs a lot lower if there's any issues  
19 running it in special elections in 40 counties, and  
20 we can have a controlled environment to look at all  
21 those kind of things.

22 But we'd be loading this stuff before that  
23 if everything -- but learning from that as we go and  
24 make sure the protocols are in place and proper for  
25 those things.

1 Q. And are you talking about loading 5.13 or  
2 5.17?

3 A. 5.17. Because it is a big effort to get  
4 to touch, essentially, every machine; and you want to  
5 make sure your protocols are in place. You don't  
6 want to be rushed. You want to be able to verify  
7 things are done properly, so it's going to take a big  
8 partnership with the counties, a big partnership with  
9 Dominion, and the State kind of looking over the top  
10 of these things to, you know, basically make sure  
11 that everything's done properly.

12 It's all a big effort, obviously. There's  
13 33,000 plus ballot-marking devices, 3300 plus I --  
14 ICP scanners. You know, you've got to touch all of  
15 them to get everything across.

16 And we have some counties that are better  
17 organized than others; and, you know, we have to give  
18 some of them a lot of lead time, in part, because  
19 they're under resourced; but some are very resourced  
20 but have a bad logistical history.

21 And -- and we even -- The State has  
22 invested repeatedly to make sure those counties can  
23 have the things they need to succeed. In the 2020  
24 election, we paid for a logistics company to go five  
25 big counties -- Cobb, Fulton, DeKalb, Gwinnett, and

1 Chatham; and I think that was a godsend for them to  
2 help keeping them on the rails.

3 Like I say, we have to balance all the  
4 stuff out.

5 So 5.17, there's not a written-out plan.  
6 It's sort of an up-in-the-air plan right now of  
7 trying to look and see if we can start doing that in  
8 January.

9 Now at the same time, our elections team,  
10 we're rolling out a new voter registration system.  
11 Again, pushing that -- we have -- We've done it in  
12 two phases. The first half of that --

13 And, again, this is going to answer your  
14 question of trying to push all these things out.

15 The training involved, we're doing January  
16 training. There ought not be, from my understanding  
17 of 5.17, not a lot of difference in how counties have  
18 to do anything on these items. They should -- The  
19 training should carry over, but we haven't verified  
20 that yet. We've been told that. We want to make  
21 sure. So is there any steps in here that are any  
22 different, so we can make sure we get those in check.

23 But right now, everybody's efforts, other  
24 than my dozens and hundreds of hours getting ready  
25 for this, is going towards the November 2020

1 election, so that's where most -- but the counties  
2 are working. We're not going to throw anything like  
3 that, so that's what we're working on. Once we get  
4 past that --

5 And hopefully, there won't be a runoff;  
6 but if that's the voters' will, that's the voters'  
7 will; and once we get past December, we're going to  
8 refocus and get a -- a more written-out, formalized  
9 plan of what we need to do.

10 Q. And is there a -- a decision with respect  
11 to 5.17, if you roll that out next year, to abandon  
12 the QR code?

13 A. There's no discussion of that just yet,  
14 because, as I said, there's a whole new set of  
15 problems that arise from that. It gives us the  
16 possibility of doing it in a way that could be  
17 digestible; but, again, there's a lot of --

18 It's not as simple as, hey, let's just go  
19 do it, 'cause I said you have paper issues. You have  
20 storage issues. You have training issues. You have  
21 auditing issues, 'cause no one's explained to me yet  
22 how you can do auditing on a two -- two page -- a two  
23 physical page ballot on some of those items, because  
24 they can get disconnected from one another, a single  
25 ballot, when you're trying to audit a race.

1 Q. Okay. Can you hold there for a second,  
2 'cause I -- I got lost on that before.

3 A. Yeah.

4 Q. When the ballot -- when the ballot --  
5 The BMD prints the ballot without a QR code. Why is  
6 the pagination any different than printing the ballot  
7 with a QR code?

8 A. Because the QR code allows you to put  
9 everything on an eight-and-a-half by eleven piece of  
10 paper. If you're going to mimic the --

11 Q. Why -- Why is that? I don't understand  
12 that. If it all --

13 If the QR code ballot has all of the same  
14 human readable selections that the non-QR code ballot  
15 will have so the voter can review all that --

16 A. Uh-huh.

17 Q. -- how does the QR code let you print it  
18 on a smaller ballot?

19 A. Okay. Again, I'm not trying to be  
20 pedantic here; but you've seen the -- the actual BMD  
21 ballot. It is eight and a half by eleven. It can go  
22 to a front and back, given the number of contests  
23 that might be on there.

24 The QR code's at the top. You just have  
25 your choices on there. Now --

1 Q. Oh, I see what you're saying. I got it.

2 A. Okay.

3 Q. I see -- I see what you're saying,  
4 because when it -- it -- when it --

5 MR. BROWN: It's a summary.

6 Q. (By Mr. Cross) -- yeah -- it prints, it's  
7 only your selection. It doesn't have every  
8 candidate, every option that's on there, so you can  
9 print it more succinctly.

10 A. And let me go further to this. On the  
11 sizes of these things, if we tried to keep the eight  
12 and a half by fourteen, which the contract calls for  
13 the 14 cent ballot for the counties which holds their  
14 cost down, it's going to be ease -- that's an easier  
15 thing to do and to manage, and you don't have to  
16 worry about multiple-page pagination.

17 And then if you're running larger pieces  
18 of paper, it's, again, a hard -- a little bit more  
19 difficult thing to deal with; and every county has  
20 different size ballots. You can have 14-inch  
21 ballots.

22 General election ballots tend to be  
23 shorter than primary ballots, because we have those  
24 ridiculous party questions they throw on the end of  
25 those. To give an example, we've said if we go to a

1 full-face ballot, we're going to have to go and just  
2 change the laws so -- so parties can't put those  
3 unnecessary questions on there, 'cause that's adding  
4 length and adding extra fail points on these systems.

5 Like I said, we have to look at a pantheon  
6 of all the issues that go into this. It would  
7 require different training. It's not as simple as,  
8 hey, let's just go do that.

9 Q. So --

10 A. And -- And a cost thing for these  
11 counties as well.

12 Q. So is it your understanding that 5.17 and  
13 5.13 with the non-QR option, it prints what you're  
14 calling a full-face ballot meaning it prints all of  
15 the options as opposed to just the -- the voter  
16 selection?

17 A. Correct. It has to, because you have to  
18 realize the QR code is based on the coordinates from  
19 a full-face ballot. That's how that works.

20 The QR code, all it's saying is X37Y21 is  
21 Donald Trump. X37Y22 is Joe Biden. That's what's in  
22 the QR code.

23 Q. I see.

24 A. So that's why you can use the scanner to  
25 scan either a BMD ballot or full-face hand-marked

1 ballot, so that's what you're getting to on that  
2 point, so that's how -- that's how that process is  
3 done. It is essentially tabulating the exact same  
4 thing on either ballot, so the human readable text is  
5 neither here nor there for either one of them --

6 Q. Well, I will --

7 A. -- for the -- for the computer processing.

8 Q. Yes. Okay.

9 A. Yes.

10 Q. Okay. But clearly, a difference for the  
11 voter, 'cause the voter can't read a QR code?

12 A. Okay. But I'll go back to you and say  
13 they can't read what the coordinates are on those  
14 things either, so if somebody hacks in -- in the  
15 scanner, it's the same thing.

16 Q. Yes. But that -- On that argument, you  
17 wouldn't even have faith in a human -- in hand-marked  
18 paper ballot, but we have to have ballots in some  
19 form, right?

20 A. Okay. Well, my point is we're having a  
21 policy argument over whether you have faith in a  
22 BMD-produced ballot or a hand-marked paper ballot.

23 My point is I believe the BMD ballot is  
24 the best option in the state of Georgia right now.

25 With a QR code, it is also hand-marked

1 ballots in and of themselves are more easily hackable  
2 in terms of low tech ways of doing it, ballot  
3 stuffing.

4 Part of the reason we got to a lot of  
5 these computerized things, if you looked at the  
6 history of why we went to voting machines is to avoid  
7 those kind of situations.

8 Q. But the scalability --

9 A. It's --

10 Q. -- is massively different. We agree on  
11 that, right?

12 A. It --

13 Q. The scalability of an attack on  
14 hand-marked paper ballots --

15 A. No. I don't agree on that, 'cause, again,  
16 if all -- all the suppositions in Dr. Halderman's  
17 things essentially say a lot of if, then; if, then;  
18 if, then to get to that point of huge scalability.

19 My contention is it is much more  
20 detectable, even with all those things. There's so  
21 many pieces and processes and the RLAs, and I know he  
22 says we only have one mandated RLA every two years.

23 I think that's too few. The Secretary  
24 thinks that's too few. We've tried to argue the last  
25 two times in legislation we need more auditing in the

1 law. We're trying to look at now can we do it by  
2 rule. We're -- We're having a discussion.

3 Q. Well, can't the SEB or the Secretary do as  
4 many audits as they want? It doesn't have to be  
5 mandated by --

6 A. The Secretary can't just tell a county to  
7 go do it. You have to have some legal authorization  
8 to do it.

9 So my point is we can't -- we can't --  
10 the -- The chief elections officer can't just make  
11 things up for them to do. We can't just say from now  
12 on, you're doing this. You have to go through the  
13 rule making.

14 So like I said, we're having discussions  
15 about how do you construct an SEB rule to do this and  
16 how do you structure it best, because my point on the  
17 RLAs is I think it's crazy to only do one every two  
18 years, because if you're doing ballot batching and  
19 all the necessary steps for that.

20 If you do every two years just to do it;  
21 you need to do it every single election, whether it's  
22 a special, a primary -- I don't care -- a runoff.  
23 You have to go through the process so you get the  
24 muscle memory back. There's enough human beings at  
25 the county level to do those things.

1           So this isn't a perfect universe versus  
2 hell. This is like a system that we know functions  
3 versus a system that people can argue this a little  
4 more secure, functions better. This is a little more  
5 secure, functions less. It's a policy discussion.

6           And that's why, no, I don't believe that;  
7 and I believe that the decisions that we've made  
8 through several laws --

9           You've got to remember. We procured this  
10 using the State procurement law after the passage of  
11 HB 316, and we're following the law. We continue to  
12 follow the law.

13           I mean, this Office now rather famously  
14 said we follow the law and we follow the evidence and  
15 we tell the truth about these things, and that's what  
16 we're trying to do is to get to a system that works  
17 that has -- provides the security that's necessary.

18           And there's never a hundred percent  
19 security on any system. I think we can all agree on  
20 that.

21           You're right in your statement that there  
22 might be scalable stuff; but if someone gets to  
23 scanner -- If they can get to an EMS, they can get  
24 to scanners, which is equally scaleable. In fact, I  
25 would argue that trying to go to BMDs is physically

1 harder, 'cause most of the stuff requires physical  
2 access to more devices.

3 If your -- If your attack vector is only  
4 the scanner, that's the only thing you can go after  
5 versus lots of BMDs in multiple jurisdictions, I  
6 would argue it's actually easier to do a thing that  
7 can affect 3,000 scanners versus 33,000 BMDs,  
8 depending on how -- how one constructs it.

9 In reading one of his attack vectors, he  
10 basically said one of the threat actors could be  
11 Russia; and they could send agents, essentially, send  
12 agents to all these multiple counties to do this. I  
13 don't -- Yes. That is a possibility. There's a  
14 possibility I could buy a lottery ticket tomorrow and  
15 win and -- and get out of all this.

16 But my point is we take into account all  
17 of these things all the time, and that -- That's  
18 kind of the way in which we look at it, but our main  
19 guiding principle is the law, and then try to say  
20 what we can we do to make the best voter experience  
21 and provide enough security so that we can all feel  
22 good about the outcome. And I think the system we  
23 have does that.

24 Q. One thing you said, you said you think  
25 having the BMDs provides fewer attack vectors than

1 having just the scanners?

2 A. Other way around.

3 Q. Right. Right. If you didn't have the  
4 BMDs, you'd have fewer attack vectors?

5 A. If you didn't have BMDs, they could focus  
6 everything on just the scanners if they were going to  
7 go that route.

8 Q. But that's fewer attack vectors.

9 A. That's more. Well, no. Both say  
10 having all --

11 It's easier to go after 3,000 things than  
12 after 30,000 things. Does that make sense?

13 Q. But that assumes you have to go after all  
14 of those 30,000 things.

15 A. You still have to go through 159 counties,  
16 and one of the things that I -- I don't want to get  
17 into the detail, into the weeds in all this. My  
18 point is it's an easier target.

19 I mean, for me, since I got into the  
20 office, my biggest fear of tactical targeting was the  
21 voter registration system, 'cause it's one target;  
22 and it is connected to the Internet, so that's --  
23 That's the only thing that's always had me on pins  
24 and needles.

25 I think all this discussion around

1 machines is sexy, and it provides fodder to

2  
3  
4  
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12  
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14  
15 That's a real thing, and that's probably  
16 the reason we're moving to another system now that  
17 has, you know, people who are updating, constantly  
18 looking at using the FedRAMP cloud.

19 This office takes all this seriously. We  
20 have to, because of the attacks not just in 2020, but  
21 in 2018, in 2016, and then 2000 and 2004. We have to  
22 take it all into account.

23 And what I -- what I dislike about this  
24 process is it looks like because of the adversarial  
25 process, we're saying no, no. You're a hundred

1 percent wrong.

2 No. Obviously, there's things in here  
3 that have to be looked at, which is why 5.17 and 5.13  
4 both correct several of the things pointed out in Dr.  
5 Halderman's report. But you can't just on a dime  
6 snap your fingers and say we can make it all happen  
7 right now this way. It's just impossible, because  
8 it's too many moving parts, too many people. How do  
9 you do what you need to do in the best way possible  
10 given the resources and time you have with the least  
11 amount of risk.

12 Q. Can you identify one election security  
13 expert that agrees with what you've just said?

14 MR. TYSON: I'll object to scope.

15 THE WITNESS: And I'll go back to the  
16 definition of election security expert. There  
17 are election cybersecurity experts who probably  
18 would not, but they haven't run elections for  
19 the most part.

20 If you talk to me about somebody who's run  
21 an election and they're responsible and held  
22 accountable for the outcomes of those elections,  
23 been under SEB rules, been under a lot of this  
24 vendor media scrutiny, been under their own  
25 people looking at them who would disagree with

1           what I said, I would think you'd have a hard  
2           time finding anyone who does that who would  
3           disagree with what I said.

4                   And I have to use the restroom again. I  
5           apologize.

6                   MR. CROSS: Okay. And I'm almost done, so  
7           we can take a break.

8                   THE WITNESS: Okay. Okay.

9                   THE VIDEOGRAPHER: We're going off the  
10          record at 3:53.

11                   (Recess from 3:53 p.m. to 4:13 p.m.)

12                   THE VIDEOGRAPHER: We're on the record at  
13          4:13.

14          Q.        (By Mr. Cross) Mr. Sterling, there were a  
15          few things you were going to follow up on at the  
16          break. What can you share?

17          A.        The county attorney name in Spalding is  
18          Stephanie Windham.

19          Q.        Uh-huh.

20          A.        Some further detail on Spalding. When we  
21          became aware of that in -- I think it was August  
22          19th.

23                   MR. TYSON: August of 2021.

24                   THE WITNESS: August of 2021, Chris Bellew  
25          got an e-mail from Kim Slaughter --

1 MR. TYSON: Uh-huh.

2 THE WITNESS: -- who's the elections  
3 director. The details were a little off to us  
4 originally, 'cause that's -- we can't be ready  
5 for certification next week. Can we do it the  
6 week after, 'cause we're bringing in an IT to  
7 image all this stuff.

8 And Chris got that and sent it to Michael,  
9 and Michael reached out. No. No. You're not  
10 doing that. You can't do that. It's like what  
11 the hell are you talking about?

12 So --

13 Q. (By Mr. Cross) That's Michael --

14 A. -- we were aware of that.

15 Q. -- Michael Barnes?

16 A. Michael Barnes. So we were aware of that.

17 Now SullivanStrickler did not become a  
18 thing until the SE -- sorry -- the SEB chairman knew  
19 about that, and this was around the time --

20 We believe when she said certification in  
21 her e-mail, she meant acceptance, essentially,  
22 interchanging the two things.

23 Of the server, we were going to replace  
24 because Ben Johnson, who was the chair down there,  
25 had gotten on a phone call with Ryan and Michael as

1 basically spouting a whole bunch of stuff; and they  
2 both said okay. Rather than try to -- We were going  
3 to go down and recertify the one. Rather than do  
4 that, let's just change it out. Take his talking  
5 point away, and then move on to the next thing.

6 And the county attorney also, we believe,  
7 Ryan talked to them; and they said yeah. We're  
8 not -- We're not going to do that. No. So it kind  
9 of went away, so that was kind of off our radar a  
10 while.

11 And SullivanStrickler was not in any of  
12 that correspondence. It was just an IT firm, so that  
13 was where that came from.

14 Q. Okay.

15 THE WITNESS: Was there anything else we  
16 were --

17 MR. TYSON: Chain-of-custody forms.

18 THE WITNESS: Oh, yeah. Chain-of-custody  
19 forms for transfers, for county transfers  
20 started being used officially in September of  
21 2022. The first one was coming over to move  
22 that stuff from that WSB interview that I did.  
23 That was the first time they were required.

24 The forms existed, but they weren't  
25 required before. Now they are required, so they

1           were used also for the Coffee County transfer as  
2           well of all the equipment, besides the stuff  
3           that was sent back in the previous summer.

4           Q.       (By Mr. Cross) So the Secretary's Office  
5           now has chain-of-custody forms that it completes when  
6           it transfers or replaces voting equipment in the  
7           state?

8           A.       Yes.

9           Q.       And that started last month?

10          A.       Yes.

11                   Now we had the -- Well, actually, we had  
12           documentation; but it wasn't the form that we use.  
13           Now we're saying, hey, use the form; and we have the  
14           other documentation as well.

15          Q.       The other documentation's is the L&A  
16           testing?

17          A.       Correct.

18          Q.       And then did you mention -- You said you  
19           did an interview? You said something about an  
20           interview.

21          A.       Oh, for the very -- the very first use of  
22           the form was I was doing a interview for Channel 2 to  
23           explain this is how the system works. Then we had to  
24           move stuff from the Sloppy Floyd Building over to the  
25           Capitol Building to make -- to set -- to set it up

1 and use it for that.

2 MR. CROSS: Okay. Okay. Let me just go  
3 ahead and mark --

4 Hand me another copy, if you will.

5 MR. KNAPP: Here's another copy from me.

6 Q. (By Mr. Cross) -- Exhibit 24.

7 (Exhibit 24 was marked for  
8 identification.)

9 MR. TYSON: Okay.

10 Q. (By Mr. Cross) And this is an article.  
11 It looks like it was just published by "Rolling  
12 Stone" --

13 A. Five hours ago. Or when it was printed.

14 Q. -- yeah -- concerning --

15 A. Six hours ago.

16 Q. -- concerning the Spalding County issue we  
17 were talking about. So the article's entitled,  
18 Pro-Trump Officials Plotted to Swipe Voting Data. We  
19 Caught Them." It's published by Justin Glawe,  
20 G-L-A-W-E, in "Rolling Stone" today about five or six  
21 hours ago.

22 A. So I'm assuming this is not part of  
23 production beforehand.

24 Q. No. No. Mr. Knapp, as in the Internet  
25 sleuth he is, found this today.

1                   So I think you answered my questions,  
2                   because it sounds like you've got better information  
3                   than you had before.

4                   A.       Uh-huh.

5                   Q.       But if you turn to Page 3.

6                   A.       The 3 of 9 marking?

7                   Q.       Yes.

8                   A.       Yes.

9                   Q.       So if you look at the third full paragraph  
10                  begins in all caps, "IN AUGUST 2021..."

11                  A.       Yes.

12                  Q.       It states, "IN AUGUST 2021, a pair of  
13                  Spalding County officials were concerned about an  
14                  upcoming Georgia effort to verify that their election  
15                  system was in good order after the board discovered  
16                  security issues on county equipment. A  
17                  representative sent by Secretary of State  
18                  Raffensperger was coming to Spalding County to test  
19                  the voting machines..." And it goes on from there.

20                  And then if you turn to --

21                  A.       And let me stop you right there. We read  
22                  this into the thing. It says, "... after the board  
23                  discovered security issues on county equipment..."

24                  That is not my understanding. They had  
25                  security concerns because the door had been unlocked.

1 They didn't know, and that's what we were going down  
2 there to look at and prove.

3 Q. I was going to ask you what the security  
4 issue were. So that your understanding is the  
5 security issues that's addressed here that Spalding  
6 County had was that a door was unlocked in the county  
7 elections office?

8 A. And people could have access to it, and  
9 she -- I -- I believe --

10 I don't know how he knew this or what  
11 he -- where this came from. This is Ben Johnson,  
12 their chair, basically saying that the previous  
13 person left -- left it, you know, with password and  
14 maybe --

15 He just didn't know. That he knew it was  
16 unlocked. He knew there were people telling him  
17 that, so he didn't know, and that was his concern.  
18 I'm boiling down a lot of discussion, but that's the  
19 main part of it.

20 Q. So the concern was that public bad actors,  
21 whomever could have had access, to the equipment, to  
22 the passwords; but they didn't know for sure one way  
23 or the other?

24 A. Again, other doors were locked, so it  
25 would have been county employees, but not county

1 employees should necessarily have access. That's my  
2 understanding of how the discussion went.

3 Q. If you turn to Page 5 of 9, there's a  
4 sentence here. There's quotes with the word "NOT" in  
5 caps. Do you see that?

6 A. "'Do NOT..." Okay.

7 Q. Right. And here it says do NOT allow an  
8 IT company -- not is in all caps --

9 A. Uh-huh.

10 Q. -- to image or conduct any activity on  
11 voting equipment, an office staffer told Slaughter on  
12 August 18. That is NOT allowed, not in all caps.

13 And if you read the preceding paragraph,  
14 you'll see the office staffer there is referred to  
15 the Secretary's Office.

16 A. Yes.

17 Q. Is it your understanding that -- that is a  
18 message that came from Michael Barnes?

19 A. From what I discussed, yes.

20 Q. Yeah. Okay. Okay.

21 MR. TYSON: Mr. Evans and Mr. Barnes.

22 Yeah.

23 THE WITNESS: Was Mr. Evans?

24 Okay. Both of them. The director Blake  
25 Evans and Michael Barnes.

1 Q. (By Mr. Cross) I see.

2 A. They said don't do that.

3 Q. Okay.

4 A. And, again, our office had never heard the  
5 name SullivanStrickler at this point --

6 Q. Got it.

7 A. -- so --

8 Q. Okay. If you look at the bottom of Page 3  
9 of 9, going back to that --

10 A. Yes, sir.

11 Q. -- it indicates that three individuals at  
12 Coffee County -- Johnson, McClain, and Slaughter --  
13 claimed the illegal data breach was necessary due to  
14 a security issue involving election equipment and  
15 pending election lawsuits.

16 Again, just for the security issue,  
17 there --

18 A. Where am I reading at this point? I'm  
19 trying to find where you're --

20 Q. The last paragraph, very bottom.

21 A. They didn't respond to requests for  
22 comments in e-mails. Okay. So that's a --

23 Okay. Got it. Now I'm there.

24 Q. The security issue, this is the unlocked  
25 door issue that we talked about before. That's your

1 understanding?

2 A. Yes, sir.

3 Q. Okay. All right. I am just about done.

4 A couple of follow-up questions. We talked --

5 A. May I keep this, so I can read it.

6 Q. Sure. Yeah. Yeah.

7 We've talked about this before, but I want  
8 to come back to it briefly before I'm done.

9 You -- You've testified that -- that you  
10 have confidence in the election system. Well, what I  
11 continue to struggle with is you have a voting system  
12 that's used in the State of Georgia that no election  
13 cybersecurity expert has endorsed and that every  
14 expert -- election cybersecurity expert who has  
15 spoken about it has advised against it, right?

16 It's not just our experts in this case,  
17 but Winky Lee, who was on the state commission, voted  
18 against it vigorously. Then Adida advises  
19 hand-marked paper ballots with BMD. Dr. Shaymus  
20 (ph.) who was engaged by the State in this case said  
21 don't use QR codes.

22 Dr. Gilbert has so much concern about the  
23 system that he has designed a whole new system that  
24 he's got a patent on. The very premise of that  
25 patent is the BMDs are not reliable.

1                   And so my question to you is: Since we  
2 all agree that voter confidence is important, why  
3 does the State continue to use a system that no  
4 election cybersecurity expert has endorsed or ever  
5 examined, apart from Dr. Halderman; and there's so  
6 many election security experts, including those  
7 engaged by the State, that say this is not the right  
8 system to use?

9                   MR. TYSON: And I'll object to scope.  
10                  It's beyond the breach issue, and to form.

11                  THE WITNESS: I'll go back -- I'll be  
12 repeating myself; but, again, you've asked this  
13 question several different ways, and this is the  
14 summation kind of question, I guess.

15                  A, it's the law. We have to use a BMD.

16                  Q.        (By Mr. Cross) Not QR codes.

17                  A.        Okay. The reality is you can't change the  
18 system right now. That's the reality we're in, and  
19 we are taking steps to always upgrade. 5.13 and 5.17  
20 are part of the long-term contract to make  
21 improvements and make changes. Like a lot of those  
22 fixes were stuff they had identified prior to the  
23 Halderman report, to my understanding, on some of  
24 these things, so we have to deal with the system we  
25 have in front of us.

1           And they -- We are looking at it  
2     holistically. As I pointed out before, it's not just  
3     cybersecurity by itself. It's cybersecurity and cost  
4     and training and systems and processes, and not just  
5     the initial cost of the system. Cost of replacement.  
6     Cost of training again. Changing those things out.  
7     We have a contract that locks in ballot costs for  
8     counties.

9           It's not as easy as these five experts say  
10    this is bad. They're not looking at everything we  
11    have to look at in order to make a system function.

12           We are operating rationally, making  
13    risk-based decisions based on the laws we have, the  
14    dollars we have, and the time we have. And I think  
15    that's all you can ask of election administrators.

16           And I've seen no proof that anything has  
17    happened on this. Yes. Yes. You pointed out  
18    Dr. Halderman was saying the existence of these  
19    vulnerabilities can lead to doubt, especially when  
20    you have bad actors who are lying about some of these  
21    things and trying to conflate. Because the  
22    vulnerability exists, therefore, the whole system  
23    is -- is corrupted.

24           The vulnerability exists on all systems.  
25    As we pointed out before, we are operating within the

1 law we have in this state, following the laws we have  
2 to procure a system, following the rules laid down by  
3 the SEB, and we proved in 2020 that the system worked  
4 and the outcome was correct.

5 Q. For one election contest. For one  
6 election contest.

7 A. Except for the fact that -- Just like we  
8 proved it for that, because I don't think we have  
9 enough audits. I'm conceding that. I would love to  
10 have more audits. I -- I -- In fact, I would love  
11 to have to put the SEB -- We're in discussions, like  
12 I said, right now.

13 But you can't just do that. You have to  
14 get some county buy-in. When you're dealing with  
15 this --

16 At one point, Secretary Kemp was having a  
17 revolt among the counties over e-mail when they first  
18 launched it, because they were completely wiggled out.  
19 It's different. It's change. You have to manage  
20 change.

21 We have change management over our voter  
22 registration system right now, and I said we're doing  
23 that in phases and -- and doing the outward facing  
24 stuff that already exists, and we're doing the inward  
25 facing stuff starting with training in January.

1 Remember, multiple things at a time. This  
2 system has proven its mettle not just here, but  
3 across the country in outcomes being correct. They  
4 audit us and other things.

5 You're right. Not as many with QR codes.  
6 I think Maryland's been moving to one, 'cause I think  
7 they're unified. I can't recall right now.

8 Louisiana would have been doing a similar  
9 thing, but they've had their own drama around  
10 election systems.

11 This office watches what happens in the  
12 rest of the country as well.

13 I am around the system a lot; and I deal  
14 with the county election workers; and like before, I  
15 think there's a lot of problems with hand-marking of  
16 ballots that the BMDs eliminate that I think are  
17 important.

18 And, again, these are policy questions.  
19 This isn't a question -- I mean, this is -- If  
20 somebody wants to change what we do, get elected to  
21 the legislature, argue it out, and then try to win  
22 over 90 votes -- 91 votes in the House and 29 votes  
23 in the Senate -- I think that's right -- yeah, 29 --  
24 and have the governor sign it.

25 Election administration needs to be left

1 to election administrators guided by the law and the  
2 rules around them.

3 Yes. There should be -- If there's real  
4 vulnerabilities bring them, and there's a process for  
5 doing that, and I think this gets us to that point.  
6 I have faith in the system, because what I've seen in  
7 the outcomes of these elections.

8 Look at what happened in DeKalb. There  
9 was a multiple set of things back to back to back  
10 that will be very difficult to replicate, but it was  
11 caught at the end. They found this election outcome  
12 that isn't right. We know it's not right. We can  
13 see it's not right. Let's go back to the paper  
14 ballots and -- and get it counted up properly, and  
15 that's what they did.

16 So the system, you'd love to catch  
17 everything on the front end. This did catch it on  
18 the back end. Even would an audit, they could see  
19 that that was the situation there. They had to hand  
20 count those ballots for that county commission race.

21 So is any system perfect? No. Is any  
22 system a hundred percent free of error and problems,  
23 no. There's humans beings involved in executing all  
24 these pieces and parts. Is the biggest threat to any  
25 system a bad actor on the inside? Yes.

1           But I think the -- the level of scale --  
2     If you'll go back to the MITRE report, it's  
3     operationally feasible to do most of these things.  
4     Even though it's the case, we are taking steps to try  
5     to shore those up.

6           And you know what's going to happen? In  
7     two years, they're going to change again. There's  
8     going to be something else that can be done and seen.  
9     There'll be ways, I'm sure, that they'll have a  
10    tricorder from Star Trek that can talk to a machine  
11    even if it's not connected to the Internet. I mean,  
12    we're always going to have to be on the lookout for  
13    the future threats.

14           I think the Office has acted responsibly.  
15    I think we do the right thing for the voters of  
16    Georgia. I think we protect the right to vote, and  
17    we try to make -- provide easy access to voting; and,  
18    again, to quote the governor or secretary, easy to  
19    vote, hard to cheat on any level.

20           Q.     But you publicly stated that  
21    Dr. Halderman's report was a joke?

22           A.     No. I think my exact words -- it was full  
23    of crap --

24           Q.     Right.

25           A.     -- before I read it.

1           Q.     But -- But you now understand from CISA's  
2     advisory, it's very far from a full of crap. I mean,  
3     CISA came in and said these are serious  
4     vulnerabilities and advised states to mitigate that,  
5     right?

6           A.     Except --

7           Q.     Certainly, you wouldn't say today that his  
8     report's full of crap?

9           A.     I would not say it's -- I wouldn't have  
10    been as blithe about it. I -- I've -- I've -- I've  
11    matured in the last two years coming out of all this,  
12    'cause there has been a highly partisan, you know,  
13    attack across the board.

14                   And did -- did I get flippant on that?  
15    Yes.

16                   Was I wrong to do it? I would normally  
17    say probably. But I'll go ahead and say yes since  
18    I'm under oath. I shouldn't have said it that way.

19                   But my point was nearly all of his  
20    underlying assess -- assumptions are difficult to do  
21    at scale. I didn't need the MITRE report to tell me  
22    that; but now I have nonpartisan, you know,  
23    scientists looking at this and telling me your gut  
24    reaction is correct, that these are very hard things  
25    to do in real life, given the number of ballot

1 styles, the number of units, the way you have to do.  
2 It's not easy to do at scale.

3 Even Dr. Halderman, I think, admits in his  
4 thing that it's not easy to do at scale. It can be  
5 done, and yes. It can be done, and we are aware of  
6 that. We know that, but that's true of any system,  
7 and anything that uses a computer.

8 So you can't just say we're not going to  
9 use computers. That belates all the risk. You  
10 create all kinds of other new risks on that side.

11 Q. But you could use a lot fewer computers  
12 and eliminate vector points.

13 A. Except from my point of view, having a  
14 diffuse system like we have --

15 I mean, I've had this question before.  
16 Wouldn't it be better if we had a unified single  
17 system in the United States of America? No. That is  
18 a terrible idea. Having different rules, different  
19 systems, different laws, different ballot styles, all  
20 those things provide an additional security.

21 So having fewer things, I think would be  
22 potentially bad, depending on your viewpoint of how  
23 you look at the reality of how some of these things  
24 can be done.

25 But, again, these are policy questions

1 that people can fundamentally and honestly disagree  
2 on.

3 Q. You agree today that the vulnerabilities  
4 Dr. Halderman identified in July of last year that  
5 CISA validated in June, those are serious  
6 vulnerabilities that need to be mitigated; is that  
7 fair?

8 A. I'm not going to get into the word  
9 "serious," because, as we said, the MITRE --

10 Q. Well, that's fair. That's fair.

11 A. -- given all of them are operationally  
12 infeasible.

13 Q. That's fair. Let me ask --

14 A. They're all vulnerabilities. Correct.

15 Q. Let me ask a different question.

16 You agree that those -- that they are  
17 vulnerabilities, however one wants to characterize  
18 the magnitude, that should be mitigated as CISA  
19 advised in June? Do you we agree on that?

20 MR. TYSON: I'll object to scope.

21 THE WITNESS: I would agree to that; and  
22 when we look through those lists, we do nearly  
23 all of those things already for the physical  
24 security and those kind of things. Obviously,  
25 we have a bad actor on one.

1           There is one in there that I think is  
2           functionally infeasible for CISA's side, where  
3           every poll worker needs to have a separate  
4           log-in. There would be chaos. There was no way  
5           that --

6           I mean -- I want you to imagine Fulton  
7           County trying to have thousands of different  
8           passwords attached to thousands of different  
9           things. It's difficult when they have a few  
10          hundred just to get into the e-mail system right  
11          now for early voting and doing that properly.  
12          And that we got -- they -- kicking and screaming  
13          on us not to do that. They wanted to have one.

14          Well, no. You're going to have separate  
15          ones for each one, because we're going to keep  
16          track of what people do on this. This is very  
17          difficult in the real world to do some of these  
18          things that make sense in an academic  
19          environment in the cybersecurity standalone  
20          environment. Then the actual functioning would  
21          get in the way of the system actually working.

22          Q.       (By Mr. Cross) You keep talking about the  
23          MITRE report, but you gloss over that there -- there  
24          are two critical assumptions that underlie those  
25          findings. When they say it's operationally

1       infeasible, they made clear what they mean --

2             A.       Yes.

3             Q.       -- because they assume that no one can get  
4       access to the equipment system. But we know from  
5       Coffee County that's -- that's a very poor  
6       assumption, right?

7             A.       Well, I believe -- I think you're  
8       characterizing it one way, but they may mean another,  
9       and I may characterize it another way reading the  
10       same words on a piece of paper.

11             Obviously, having access to machines can  
12       give you a better roadmap mobility to do it. You  
13       still have to have access to nearly all of the  
14       machines in most of the situations that were  
15       described in Dr. Halderman's report. You have to be  
16       able to --

17             Q.       But not all of them.

18             A.       I didn't say all of them. I said in most  
19       of them.

20             So, again, even those would require -- If  
21       we go to the umpteenth one was the top one, which is  
22       now functionally incorrect, because Dominion is not  
23       the -- There's not one person in Dominion doing the  
24       ballot building now. That was one of the main things  
25       he said. You could plant something there.

1           We have several different people; and  
2     you're right. If a bunch of human beings with the  
3     right technical training and the right positioning  
4     got into these things, it could potentially happen;  
5     but that would happen even in what your relief is.  
6     If you had people in that position, they can then  
7     program all the standards to do the same thing. You  
8     have to look at what --

9           Most people are people of good faith.  
10    Most people are doing their jobs and they're being  
11    honest; and if you don't accept that on some level of  
12    a premise, then you get into the election denial  
13    situation we have where it says --

14           My best example. I said the January 6th  
15    Committee, when I know one of our people talked to an  
16    attorney, a smart guy; and we walked him through.

17           This happened.

18           Okay. I understand. So that's -- that's  
19    not a real thing.

20           This happened.

21           Okay. Well, this is how --

22           Okay. I understand.

23           And we went through like five of them; but  
24    in the end, he goes I just know Fulton County  
25    cheated. I mean, you can't get around some of that.

1           And you've got to assume good intentions  
2     for the most people, especially when they're in the  
3     elections environment itself. I mean, there's a lot  
4     of peer pressure amongst these people now to make  
5     sure you're doing a good job to protect the election  
6     equipment. Like I said, now Misty is a cautionary  
7     tale on some of these people, because they see there  
8     are real world consequences if you screw up, even if  
9     you think you're doing the right thing.

10           There's a process to do that. Go to  
11    court. Lay everything out. Do it the proper way,  
12    but that would be true for any system that exists.

13           Q.     Late to join.

14           A.     Well, people are coming out and coming  
15    back in --

16           Q.     Yeah.

17           A.     -- is the problem.

18           Q.     Sorry. I lost my train of thought for a  
19    second.

20           A.     Was it my eloquence?

21           Q.     I think it was your length.

22           A.     I'm a recovering politician.

23           Q.     Oh. So you said a number of times that to  
24    scale the -- some of vulnerabilities in  
25    Dr. Halderman's report, you -- you have to access

1 these machines across the state, tens of thousands of  
2 them; but that's not really right, right?

3 I mean, let -- let's just take the  
4 presidential election from November of 2020.

5 A. Okay.

6 Q. You probably know better than anyone  
7 except for maybe Secretary Raffensperger what a thin  
8 margin that was, because I think you were -- I can't  
9 remember if you were on the call, but we all know the  
10 call.

11 A. I -- I --

12 Q. -- where there was a specific number of  
13 votes called for.

14 A. 11,780 votes called for. 11,789 was  
15 the -- was the final amount, and it was kind of  
16 funny, because that number had shrunk from the -- the  
17 recount because Fulton County had screwed up  
18 something. Either they had double-counted some  
19 earlier votes or something. So it actually shrank.

20 There was a joke that maybe if there were  
21 nine more recounts maybe he would win, 'cause Fulton  
22 would just lose ballots.

23 Q. But there were, what, 6 million plus  
24 votes?

25 A. No. There was 5,030,000 cast and about --

1 It was 4,990,000 something was actually cast in the  
2 final version of the presidential election. There  
3 were about 28,000 people just skipped. They voted  
4 down ballot, but they skip that thing altogether.

5 Q. How many votes in Fulton just roughly?

6 A. I -- I --

7 Q. Hundreds of thousands, right?

8 A. There are probably -- It's going to be  
9 around 10 percent of the overall, so get to spitball  
10 it, I think it was a little under that, so I'm going  
11 to say probably 450ish, something like that.

12 Q. Cobb also tends to have hundreds of  
13 thousands of votes, right?

14 A. Cobb, Gwinnett, and DeKalb are, obviously,  
15 our biggest ones.

16 Q. Okay. My point being when you say that  
17 to -- to exploit some of the vulnerabilities of Dr.  
18 Halderman's report, you have to have access across  
19 the state, the reality is that there are counties in  
20 the state that are large enough, that we're talking  
21 about changing a number of votes certainly at the  
22 statewide level, but even at the county level if it's  
23 a rounding area. Right. 11,000 votes to -- to -- to  
24 affect the outcome of the presidential election where  
25 Georgia was literally deciding the outcome of that

1 on -- on a nationwide level, we're talking about --

2 A. Well, actually, if Trump had won, he still  
3 would have lost.

4 Q. Well --

5 A. Let's be --

6 Q. Fair enough.

7 A. Let's not overinflate.

8 Q. Fair enough. Fair enough. Fair enough.

9 Fair to say Georgia was an important part  
10 of that election. But point being we're -- we're  
11 talking about this -- this can come down to such a  
12 small number of votes, that it's a rounding error;  
13 and you could do it in a single county.

14 A. Except --

15 MR. TYSON: And I object to scope. Again,  
16 we're -- we're deep in policy.

17 But you can answer, if you know.

18 THE WITNESS: Except down to the point  
19 where you say, yes, you can access a single  
20 county.

21 All right. The level of understanding,  
22 sophistication would have to be extremely high,  
23 because, again, I've done this for a very long  
24 time. A lot of election monitors have done this  
25 for a very long time.

1           If you had a precinct that suddenly went  
2           cuckoo and we knew for years had been X amount.

3           And the situation in Fulton, as an  
4           example, is having been a candidate for county  
5           commission chairman, knowing that there's --  
6           there's precincts in South Fulton where there  
7           was 3,000 votes for Robb Pitts, 3200 for Keisha  
8           Waits, and 4 for Gabriel Sterling, there's a lot  
9           of behavioral things.

10          The main thing we're talking about is  
11          things not being detected. The level of  
12          sophistication of trying to do what you could do  
13          if you didn't know what's happening in the rest  
14          of the state doing it in a single county without  
15          being able to periodically know it was -- it's  
16          just no easily understandable that it would be  
17          done in a way that couldn't be detected if you  
18          didn't know what the turnout was going to be  
19          like otherwise.

20          'Cause let's face it. There was many  
21          people who were under the impression that Trump  
22          was going to win Georgia, because it was between  
23          behind South Carolina and Alabama. We are a  
24          different state. People now have kind of seen  
25          that. Anybody watching that in 2018 knows that.

1 But not only do counties have behavioral  
2 things, precincts have behavioral things you can  
3 look at, but people want to say that looks  
4 weird. We probably need to look at that.  
5 There's not a protocol for those things; but if  
6 there was an election like that, there could be  
7 election challenge. I would expect somebody to  
8 say we need to go look at this, because this is  
9 behaviorally is different from the past.

10 It's all about will it be detected, and I  
11 think it would be very difficult to do something  
12 in such a way unless you knew beforehand what  
13 the thing was going to be that you could do  
14 that, and then at the same time, only to do  
15 those specific races.

16 And one of the things that is interesting  
17 about this is the different ballot styles in  
18 different places, you have to know what each one  
19 of those are. Have to have passcode. It's just  
20 a Herculean effort. It's not like one guy.

21 I think we're all spoiled to a degree now.  
22 You know I grew up watching "War Games." I'm 51  
23 years old. We all see people log in and change  
24 their grade on stuff. There's even a "Stranger  
25 Things" in the last season.

1           Everybody thinks this is easy to do, but  
2           Dr. Halderman, to his credit, he points out this  
3           is not easy to do; but it can be done; but then  
4           it's not just the ability to do it, it's the  
5           ability to do it in the way that's undetected by  
6           people who just watch these things.

7           Like you pointed out before, there was  
8           people who walked -- watched where planes go.  
9           We had a situation where we knew that Spalding  
10          County -- I believe it was Spalding County --  
11          was missing one of their batches -- it was Floyd  
12          County -- was missing one of their batches  
13          because a teenager --

14          I was looking at it. I said this looks  
15          weird, and he says it looks like they're missing  
16          a -- I'm looking at this data. It looks like  
17          they're missing one of their early precincts.

18          I mean, so all eyes are on this; and  
19          trying to do it in an undetected way just isn't  
20          a -- Could it possibly happen? Sure. I can't  
21          say anything's impossible, you know; but it's  
22          not likely; and it's very difficult. And the  
23          risk reward attached to it of the amount of them  
24          not getting detected is very difficult.

25          It just -- It just simply is in this --

1 in the way we have to look at these things and  
2 how they're executed.

3 MR. CROSS: Okay. I don't have any  
4 further questions.

5 MR. BROWN: Okay. My name is Bruce Brown.  
6 I've got a few questions, Mr. Sterling.

7 THE WITNESS: I'm going to see you at  
8 Moe's & Joe's later?

9 MR. BROWN: Yes.

10 MR. TYSON: Bruce, I'm sorry. Before you  
11 get rolling, David, we did identify the e-mail  
12 that was referenced in the "Rolling Stone."  
13 We'll ask the Secretary's Office to pull that,  
14 and we -- we have it. I think --

15 I don't know if we want to mark it as an  
16 exhibit, just so we have that.

17 It wasn't in the Spalding investigative  
18 file yet, so that's why it didn't come in with  
19 the other Spalding investigative documents.

20 THE WITNESS: And, Bruce, before you get  
21 rolling, let's just be fair to each other. I'm  
22 going to run to the restroom real quick.

23 MR. BROWN: Absolutely.

24 THE WITNESS: And then we'll start off.  
25 Okay?

1 MR. BROWN: Okay.

2 THE VIDEOGRAPHER: We're going off the  
3 record at 4:40.

4 (Recess from 4:40 p.m. to 4:45 p.m.)

5 THE VIDEOGRAPHER: We're on the record at  
6 4:45. We're back on the record, sir you may  
7 proceed.

8 MR. BROWN: Thank you. Very much.

9 THE WITNESS: You've done this before,  
10 right, Bruce?

11 MR. BROWN: I actually have done this  
12 before.

13 THE WITNESS: Okay.

14 CROSS-EXAMINATION

15 BY MR. BROWN:

16 Q. Mr. Sterling, I just have a few follow-up  
17 questions; and I'm -- I'm going to go through my  
18 notes; and it may not be in sequence to the earlier  
19 testimony or chronologically. So bear with me.

20 A. Can we define a few before we start. I'm  
21 kidding.

22 Q. Yeah. 20.

23 I want to take you what -- through what  
24 might be described as a sluggish response by the  
25 Secretary of State to the initial evidence of a

1 breach in Coffee County. Okay. The --

2 You've testified that prior to your  
3 deposition, you hadn't heard of any evidence of  
4 breach that we're discussing now in Coffee County  
5 where someone actually copied the equipment; fair to  
6 say?

7 A. Yes, sir.

8 Q. And in your deposition, you -- you were --  
9 you listened to, you were played a recording of a  
10 conversation between Miss Marks and -- and Scott  
11 Hall, right?

12 A. Yes, sir.

13 Q. And I believe you testified that that was  
14 in February?

15 A. February 25th or 24th, something like  
16 that.

17 Q. Right. And then it was February, March,  
18 April, May, June, July, five months until the  
19 Secretary of State looked at the machine that was the  
20 subject of that recorded, taped conversation to  
21 determine whether or not there had, in fact, been  
22 some sort of violation of it, correct?

23 MR. TYSON: And I'll --

24 THE WITNESS: No.

25 MR. TYSON: -- object to form.

1 THE WITNESS: We had been attempting to  
2 get into that machine for several months. Not  
3 long after that, like I said, we reached out to  
4 Dominion. How can we do this? Well, we're  
5 going to be down to here.

6 Okay. Come here.

7 Now, again, when we look at what it was,  
8 our gut reactions were like this is probably  
9 another one of those many claims that Scott  
10 Hall's involved with; and, again, Marilyn Marks  
11 was part of this; and we have some parts of it;  
12 and she's a litigant in these things. So,  
13 obviously, her feelings are like.

14 Q. (By Mr. Brown) Now let me -- let me stop  
15 you there.

16 A. Yeah.

17 Q. How did Marilyn Marks' involvement --  
18 What do you mean by involvement?

19 A. She was the one who brought us this  
20 evidence in a deposition, so I put less faith in what  
21 she says and what she has on that. I believe she  
22 does, too. She didn't trust like Scott Hall on top  
23 of that, so this -- We had two people on top of that  
24 that I didn't necessarily have faith in.

25 Q. Right. But -- But Miss Marks wasn't a

1 witness. She brought you the recording, right?

2 A. Now --

3 Q. She didn't say anything about the Coffee  
4 County --

5 A. But, again, to my --

6 Q. -- caper issue --

7 THE COURT REPORTER: Hold on.

8 Q. (By Mr. Brown) She did not make any  
9 representations about the Coffee County caper, did  
10 she?

11 A. I couldn't say for sure; but she was part  
12 of the phone call, which was daylighting it to us  
13 from your point of view.

14 Q. Now going back to --

15 A. I'm asking your first question, sir. I'm  
16 going to answer your first question, which was a  
17 sluggish response, which I'm disagreeing with. I'm  
18 going to go through my answer.

19 So we were trying to do it starting --

20 We had discussions with Dominion in March.  
21 They came in April. They were trying something  
22 through May.

23 And in June, Ryan and I said okay. We've  
24 got to do something different, because this is not  
25 working. We do want to get to the answers. And

1 that's when we, get with the lawyers, decided to go  
2 to Mr. Persinger; and that was soon literally within  
3 a couple -- a day or two of when he discovered it, we  
4 did that; and that's when we knew that it occurred.

5 Q. Okay.

6 A. I wouldn't call it sluggish. I would say  
7 it was methodical; and, again, a lot of hindsight  
8 being 20-20, go to DEF CON 1 now, because we now  
9 know; but we didn't know that then. And -- And the  
10 indications were it had all the hallmarks of  
11 misinformation, disinformation, like we'd seen so  
12 often from Scott Hall and Sidney Powell and all of  
13 the other people involved in the situation.

14 So I wouldn't call it sluggish to say,  
15 okay, we're doing what we do given this level of  
16 evidence we were doing with.

17 Q. So we can expect the Secretary of State,  
18 the next time this happens, to take about five months  
19 to get to something like this?

20 MR. TYSON: And I'll object to scope and  
21 form.

22 Q. (By Mr. Brown) I mean, you understand my  
23 question is that if it's that hard to detect it, why  
24 is the next time going to be any different?

25 A. Because I can tell you it's kind of like

1 the scanner itself. When you first deploy a scanner,  
2 it goes through. It takes a while to find that first  
3 ballot style dup, but the next time, it now knows.  
4 Now we know --

5 THE COURT REPORTER: Huh-uh. No, no.

6 THE WITNESS: Wait. When the scanner  
7 looks at a ballot for the first time, it has to  
8 go through all the ballots that it has. The  
9 next time it does, it already has that one in  
10 the queue ready to go.

11 So now we have a different situation. We  
12 know this has happened. Before we were under  
13 the impression nobody had gotten into Georgia,  
14 because we had the situation where the guy from  
15 overstock.com was saying we tried to get into  
16 Georgia, and we failed. No one had come forward  
17 from any of the counties to say it had happened.

18 So, again, when you have people who --  
19 That's the same guy. Again, you have to take  
20 into account his level of credibility.

21 Thousands of fake ballots. No.

22 Counting in the back room. No.

23 I mean, so we had that credibility level  
24 on that; but we are still doing our due  
25 diligence to get to it to find an answer. If

1 we'd been discounted, we would have stopped  
2 altogether; and like I said, Ryan and I were  
3 working. Let's try to get these things cleared  
4 off, so we can get this stuff put to bed and  
5 move on to the next thing.

6 So no. I do not accept your supposition  
7 that the next time it will be that way, 'cause  
8 now we've seen it has happened; and now we have  
9 some specific things we can go after and know  
10 what to do, because it hadn't happened before.

11 Q. (By Mr. Brown) Now you -- you testified  
12 that -- I may be mischaracterizing this, but let me  
13 try to get it right -- is that the Hall recording  
14 standing alone needed further evidence or further  
15 corroboration for it to be taken seriously by your  
16 office. Fair to say?

17 A. No. What I was saying was we were sort of  
18 dealing with it, 'cause we said this is a real thing  
19 that's being claimed. So we have in our possession  
20 something that can say yes or no on that claim; but,  
21 again, the claim itself, we said -- we thought didn't  
22 have a lot of umph behind it; but we wanted --

23 Since we had that server in our possession  
24 we wanted to be able to get into it to say yes or no  
25 and get out of the way. I will say in my gut, I

1 thought it wasn't real because of the way it came to  
2 us and Scott Hall's involvement, 'cause there were so  
3 many other things that we were told to investigate  
4 and waste, time, effort and money on that wasn't  
5 real.

6 We still were doing it. We still did  
7 those things, because there's just -- If we can do  
8 it, we were trying to find a way to do it. Going to  
9 Dominion seemed the first logical step.

10 And when that didn't work, I don't know I  
11 used the exact term, but I believe I said we're sort  
12 of spinning our wheels. We've got to do something  
13 different.

14 And I don't know if Ryan initiated a  
15 conversation with me, or I initiated it Ryan.

16 Q. You said --

17 A. I'm withdrawing my name so --

18 Q. You said -- You said going to Dominion  
19 was the first thing that you did?

20 A. Uh-huh.

21 Q. What do you mean by that?

22 A. After we got the claim and we got -- like  
23 I said, the timeline -- I feel like I'm repeating  
24 myself -- but I mean, you're going over these same  
25 things -- was we got the full tape so we can get full

1 context. Just hearing a snippet at that point was  
2 all we had.

3 Q. Tell me something. You got the full tape  
4 about three days after you asked for it, correct?

5 A. I think it was the 25th.

6 Q. I don't know. You asked for it on the  
7 27th.

8 MR. TYSON: That's right.

9 Q. (By Mr. Brown) And you got it on the 2nd,  
10 right? February being a short month. It's three  
11 days.

12 A. So five days.

13 Q. Okay.

14 A. Well, that's what you're saying.

15 Q. Three --

16 A. Either way, my point was we got that; and  
17 I said I couldn't remember -- I said this, whether  
18 it was post or before that we got that, listened to  
19 whole thing. Said okay. We definitely need to do  
20 something here. I said Ryan was already inclined to  
21 do it based on that. But we didn't know. What are  
22 we looking for?

23 So we had -- That was our first starting  
24 point was that, getting that full tape.

25 Q. But the full tape actually, in fairness,

1 would actually decrease the confidence you had in the  
2 small tape, wouldn't it?

3 A. It made it about the same, honestly --

4 Q. Right --

5 A. -- because --

6 Q. So you didn't learn anything new by the  
7 full tape, correct?

8 A. We -- Not that I'm aware of --

9 Q. Okay.

10 A. -- other than the fact that Scott Hall can  
11 say some gracious crap. I mean, other than that.

12 Q. So you wouldn't -- You wouldn't really  
13 wouldn't blame Miss Marks for not believing it when  
14 she heard it live, right --

15 A. No. But --

16 Q. -- if you -- if you didn't believe it?

17 A. I wouldn't, but my question --

18 Q. And, therefore, you're not blaming her for  
19 not believing it, right?

20 A. I'm -- Here, let me ask this question.

21 Q. I'm asking -- yes or no.

22 A. No. I'm not going to run with that but --

23 Q. Wait, wait. Slow down, because I didn't  
24 hear you, I doubt this court reporter got it. You're  
25 not blaming her?

1           A.       For not believing it.

2           Q.       For not believing it, 'cause you didn't  
3 believe it either, right?

4           A.       In order, she didn't believe it. She sat  
5 on it for nearly a year. Then played for us, and we  
6 didn't believe it necessarily.

7                   But we started the process, because we  
8 were aware of it. We started and said we have  
9 something to prove this one way or the other that  
10 exists, and we can investigate that.

11                   In the situation, in reality, since you  
12 were talking about my story earlier, and this is --  
13 is that we didn't have this for a year. Everything  
14 would have been slightly different, more than likely,  
15 if we had had it for that period of time. We have  
16 gotten into and seen it was done earlier. All those  
17 of things would have been different.

18                   So and hindsight being 20-20, if we'd had  
19 it earlier, we would have gotten to this point  
20 earlier; and trying to claim we were dragging our  
21 feet when somebody sat on it for a year is morally  
22 wrong and attempting to undermine people's faith in  
23 the elections and our investigations.

24                   So I put yes.

25           Q.       Okay. So you now jumped on it in February

1 when you got it. Okay. And --

2 A. March. But yeah.

3 Q. You heard it in February?

4 A. Again, I'm going to parse this with you.  
5 I said once we got the full recording. We got that  
6 okay. Let's look -- What do we need to do to get  
7 into this?

8 And that's when we called Dominion. It  
9 was in March of that time, 'cause I was -- We got  
10 the full report in, so I wasn't sure of the full  
11 timing on that; but, again, you're talking about  
12 day's difference --

13 Q. Okay.

14 A. -- versus a year.

15 Q. Right. And you -- You knew when you  
16 heard that recording that the SullivanStrickler  
17 people were involved in the caper, didn't you?

18 A. I didn't know anything, because we hadn't  
19 been able to prove anything. Nothing --

20 Q. Mr. Hall mentioned -- said in the  
21 recording that the same people who did this were the  
22 people involved in Antrim, Michigan. And it's public  
23 record in February of '22 and much earlier that these  
24 same people were in Michigan; isn't the right?

25 A. By your standard, when Mr. Hall said there

1 were fake ballots, that must be true because he said  
2 it. All I had was Mr. Hall on tape saying that.

3 Q. Right. Did you call up -- They're right  
4 down the street. Did you call up SullivanStrickler  
5 and ask them were you involved in the Coffee County  
6 caper like you were in Michigan?

7 A. I didn't ask that because we had made an  
8 investigatory decision with Ryan Germany saying let's  
9 get what we can off that thing first to know if  
10 anything happened at all.

11 Q. And so unable to get anything off of the  
12 server, you didn't really do anything for five  
13 months --

14 MR. TYSON: I'll object to form.

15 Q. (By Mr. Brown) -- to investigate it,  
16 right?

17 A. Okay.

18 MR. TYSON: Object to form.

19 THE WITNESS: You're not going to let this  
20 go. We've have a difference of opinion on us  
21 doing things.

22 Q. (By Mr. Brown) A yes or no question.

23 A. No. It's not true, sir. You are  
24 misstating things that I have said in this --

25 Q. Okay.

1 A. -- deposition.

2 Q. What did you do --

3 A. Are you going to talk over me?

4 MR. TYSON: Guys, guys. Whoa, whoa, whoa.  
5 Okay.

6 Q. (By Mr. Brown) Go ahead.

7 MR. TYSON: We need to answer the  
8 question.

9 Q. (By Mr. Brown) I need for you to --  
10 And when I ask you a yes-or-no answer, I'm  
11 going to interrupt you if you do not answer it.

12 MR. TYSON: Bruce.

13 THE WITNESS: And I said no.

14 MR. TYSON: Bruce, Bruce.

15 THE WITNESS: Like my -- my starting  
16 answer is no.

17 By going to Dominion and working with them  
18 and trying to get this done, we couldn't get it  
19 done. We finally said we're not getting in this  
20 way. Let's change direction.

21 We did that. You might think it was too  
22 slow. We do lots of things in the office. I  
23 get that.

24 I mean, so I understand the basis of your  
25 question. But I will state again. If we had

1 known a year earlier, we would have gotten to  
2 this point earlier and able to do -- address  
3 this differently perhaps. I don't know, because  
4 it's a what if, and we can't know what if.

5 The one thing I do know is it was not  
6 given to us until that case, until February  
7 of -- late February of 2022.

8 Q. (By Mr. Brown) Okay. You testified  
9 that -- that there was something about the  
10 unreliability about Miss Marks that led to you not  
11 taking this as seriously as you might have otherwise.  
12 What did you mean by that?

13 MR. TYSON: I'll object to form.

14 THE WITNESS: And it wasn't just Miss  
15 Marks. It was Miss Marks in combination with  
16 Mr. Hall.

17 Q. (By Mr. Brown) Right.

18 A. What I mean by that is she is a litigant  
19 in this case. She attacks this Office repeated over  
20 and over again from our point of view unfairly. I'm  
21 that sure from her point of view very fairly.

22 But if you're getting -- if somebody's  
23 trying to beat you in court and beat you in public  
24 arenas and go to the press constantly on things  
25 against you, you generally will not take things that

1 they bring to you as -- as -- as a pure --  
2 pure-hearted manner as it would if it was a  
3 non-litigant, a regular citizen, or somebody who you  
4 knew.

5 If somebody -- If an election director  
6 had come to me with this, I would have had it higher  
7 than if a random citizen had come to me with this.

8 Q. I mean, the reason why it doesn't make any  
9 sense is that it wasn't like it was a recording of  
10 Marilyn Marks saying she went to Coffee County,  
11 right?

12 It's not dependent upon her veracity.  
13 It's dependent upon Scott Hall's veracity, and Miss  
14 Marks's veracity would have nothing to do with it,  
15 right?

16 MR. TYSON: And I'll object to scope and  
17 to form.

18 THE WITNESS: Responding in a human way,  
19 her being part of it definitely probably colored  
20 part of my viewpoint, but yes --

21 Q. (By Mr. Brown) All right.

22 A. -- because she is somebody who attempts to  
23 undermine and attack our office and my boss  
24 essentially every day, so yes. That could be.

25 A human being cannot separate themselves

1 from that reaction, Mr. -- Mr. -- And I think you  
2 know that, so I'm not saying it slowed us down. I  
3 said regardless of the veracity of either one  
4 of them.

5 And you're right Mr. Hall's is the more  
6 important one here. No question. And I think we all  
7 agree. He's not necessarily a font of wisdom when it  
8 comes to elections.

9 We still were taking steps to investigate,  
10 so we do a binary yes or no, something did happen or  
11 something didn't happen. My assumption was based on  
12 mainly Mr. Hall, but I'm not going to -- you --

13 I'm being honest here in saying Miss  
14 Marks's involvement would make me color it as not  
15 necessarily as reliable. We were still trying to get  
16 that to point, and I would -- In situations, I would  
17 like to be able to think sooner rather than later;  
18 but, again, we were juggling many things at one time.

19 We have X number of dollars; and even when  
20 we went to talk in June with the lawyers about  
21 bringing on Mr. Persinger, there was a discussion  
22 about, well, is DOS paying him, will he do it. I  
23 mean, so we were having those kind of discussions;  
24 and we were saying is there any other backup at that  
25 point.

1 But at that point, we thought Mr.  
2 Persinger would do it, so he couldn't get to it, I  
3 think, until that first week of July.

4 And, again, hindsight 20-20, would I wish  
5 we had got to that point faster internally? Yes,  
6 especially knowing what we know now; but we didn't.

7 Q. Okay. Now I think Mr. Cross asked this.  
8 But I'm still confused on it.

9 You said there was no new information that  
10 triggered you hiring Mr. Persinger. It was simply  
11 that you were unable to do it without him. Is that  
12 fair to say?

13 A. We didn't know that he would be able to do  
14 it, so we -- We had kind of higher faith that he  
15 could.

16 I think, again -- again, I've said it a  
17 few times in this deposition. We were sort of  
18 spinning our wheels and not getting anywhere. We had  
19 to do something different. There was not a new piece  
20 of information, a new thing that occurred, at least  
21 to my recollection.

22 I mean, I remember us having a  
23 conversation, what the hell. We've got to get this  
24 off our plate. What do we need to do to get this  
25 thing moving to find out if somebody got in there or

1 not.

2 Q. Can you turn to Exhibit 9.

3 A. Ew, I'll give it my best shot. Can you  
4 describe to me what it is.

5 Q. Yeah. It is the Ryan Germany, to Steven  
6 Ellis e-mail --

7 A. One --

8 Q. -- on April 1st, 2022.

9 A. -- two, three.

10 MR. TYSON: Just use that one.

11 THE WITNESS: No wonder counsel's faster  
12 than me getting those.

13 Go ahead.

14 Q. (By Mr. Brown) You -- To get this back  
15 in kind, this is April 1st. This is, you know,  
16 several weeks after the Secretary of States (sic) has  
17 the recording.

18 A. Uh-huh.

19 Q. It's in the timeframe in which I take  
20 it -- I mean, you described you were sort of  
21 laughing at that recording at first, not taking it --  
22 not taking it extremely seriously. To be -- I'll  
23 just be real transparent. Is it --

24 This e-mail looks like it's a much more  
25 serious investigation by April 1st, because why would

1 in a otherwise routine request from Coffee County for  
2 information, which could easily have been given to  
3 her without going through lawyers, why did you decide  
4 to work through Hall Booth?

5 A. Well, we didn't --

6 Q. Or why would the secretary --

7 A. Choose to work through.

8 MR. TYSON: Let him finish his question.

9 THE WITNESS: Okay. That was --

10 Q. (By Mr. Brown) I'm sorry. Did the  
11 Secretary decide or your office decide to work  
12 through Hall Booth?

13 A. Well, because this was at issue with the  
14 claim from them, so it was in litigation. So it  
15 would make normal sense in the normal course of  
16 business to work through the county attorneys.

17 And generally speaking, when we were doing  
18 investigations regardless, we normally loop the  
19 county attorneys in on those things, because they  
20 want to be kept apprized of that. Hey, by the way,  
21 we've got our law enforcement guys talking to your  
22 folks that's a normal thing, Mr. Brown.

23 And, again, since this was April of 2022,  
24 we were aware of this thing from February, into March  
25 of 2022. This on the heels of that would make

1 perfect sense; and to try to say otherwise is just --

2 I -- I don't see why this would seem to  
3 odd to you, sir.

4 Q. Did you -- Did anyone ever answer Miss  
5 Roberts's question?

6 A. I believe that there was something sent to  
7 them. I don't know for certain, because we were  
8 working through their attorney. Maybe she didn't  
9 need it after that. I don't know the answer to that  
10 question.

11 Q. So do you not know if -- if her very  
12 simple question about why it was picked up was never  
13 answered?

14 A. I do not know for certain it was. I  
15 believe that it was, but I don't want to state that  
16 on the record. I don't know for certain.

17 Because I remember I believe that we did  
18 it, but I don't have a specific on this date this  
19 person sent this letter to her explaining.

20 It was very straightforward, because the  
21 password had been changed so --

22 Q. Are you aware of any -- are you -- I'm  
23 not challenging your -- your testimony.

24 But are you saying that based upon the  
25 document you saw or based upon how you think it

1 probably would have happened?

2 A. I think it was discussions we had  
3 internally; and, also, from this, I believe they had  
4 Open Records Requests from people at this point; and  
5 they wanted to have something from the State  
6 explaining what had happened.

7 So I think that was the impetus behind her  
8 asking for it and us going through the attorneys to  
9 make sure, okay, let's dot our i's, cross all our  
10 t's. Here you go. I believe that's how it went.

11 Q. Okay. Let me direct your attention to  
12 Exhibit 15.

13 THE WITNESS: You take that one back.  
14 Which one was that one, sir?

15 Q. (By Mr. Brown) That is the case --

16 THE WITNESS: You're too fast.

17 Q. (By Mr. Brown) -- the case report --

18 A. Yeah.

19 Q. -- the case cover sheet. We received this  
20 today and -- But it has a -- a print date, I think,  
21 of April 25th, 2022. Do you see that?

22 A. It's down there on the corner. Yeah.

23 Q. That seems sort of odd.

24 A. That might be the last time it was  
25 touched.

1 MR. TYSON: I think that might be.

2 THE WITNESS: But I couldn't tell you.

3 We'd have to -- We'd have to check that.

4 MR. TYSON: I can check on that, Bruce, if  
5 you want me to.

6 THE WITNESS: Because the SharePoint  
7 system will show the last time things are done,  
8 so you can know the last time somebody was in  
9 the investigative file.

10 Q. (By Mr. Brown) All right. And the most  
11 recent date is, in fact, the date it was reassigned,  
12 which is --

13 A. Correct.

14 Q. -- the same day. Okay.

15 A. So there's been -- I don't think you have  
16 any change on this one since that point that's been  
17 added or taken away from the file or changed.

18 Q. Okay. Let me -- This sounds more  
19 adversarial than -- than I want it to be.

20 But you've described how the investigation  
21 into the Coffee County incident is now sort of been  
22 taken over by the GBI, right? And --

23 A. Not sort of, but taken over by the GBI.

24 Q. Right. And you have stated, I think,  
25 quite appropriately, given the GBI has jurisdiction

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Q. The -- As to this particular case, the --  
the SEB voted to refer it directly to the GBI in  
December 2021, right?

22  
23  
24  
25 A. I don't think that's how that works. It

1 was sent December 21 to the Attorney General's  
2 Office. Not to the GBI, sir.

3 Q. Oh, what did I say?

4 A. The GBI.

5 Q. Okay. So it was sent to the Attorney  
6 General's Office?

7 A. Yes.

8 Q. I misspoke. It was sent to the Attorney  
9 General's Office. How did you get it back from the  
10 Attorney General's Office without some sort of SEB  
11 authorization?

12 A. Again, you're into the intricacies of  
13 bureaucracy; and I don't know that we got it back  
14 necessarily, because the three items that were there  
15 had been essentially closed; and there was specific.  
16 I think it had been sent over to them a particular  
17 violation of law.

18 We reopened this, because the same actors  
19 were involved essentially; and I don't think we have  
20 to get it back from them to put our investigators  
21 back on. Here's new sets of facts with the same  
22 actors kind of thing. There's not -- You don't have  
23 to, as I understand it, do anything to pull it back  
24 or have them give it back to you. It's 'cause it's  
25 our investigation, so we're just using that same

1 shell --

2 Q. Okay.

3 A. -- essentially.

4 Q. Okay. So the -- the AG and the SO -- and  
5 the Secretary of State could be more parallel than if  
6 the GBI ever got involved --

7 A. Yeah.

8 Q. -- right?

9 A. Yeah. To a degree. Because, again, as I  
10 said, it's sort of an overly bureaucratic thing where  
11 it goes to AG and if they decide something has to go  
12 to the administrative law judge on the specific  
13 things that were referred. It's not the case  
14 necessarily. It is just the specific part of the  
15 case, and here is the title violation that we're  
16 investigating that we believe requires the AG to take  
17 the next step.

18 Q. What has been the AG's involvement in the  
19 Coffee County incident, their office?

20 A. The --

21 MR. TYSON: Object to form.

22 THE WITNESS: Okay. When you say Coffee  
23 County incident, are you referring to January  
24 7th?

25 Q. (By Mr. Brown) Yes.

1           A.       Okay. As far as I know, none.

2           Q.       Okay. I don't want to nitpick, but I  
3 just -- I have to do this. You -- you --

4           A.       I understand.

5           Q.       You -- you -- In response to a question  
6 about Jeffrey Lenberg -- sorry -- yeah, Lenberg, you  
7 said you didn't have any specific knowledge of -- of  
8 what he was involved with.

9                   And my question to you: Do you have any  
10 knowledge of what he was doing?

11          A.       Only from what we've seen from the press  
12 and the situation now. I mean, that he is part of  
13 this group that was looking at election equipment.

14                   Do we know specifics of this is his  
15 specialty, or this is what he knows? Nothing like  
16 that. So that's what I meant by specific knowledge.

17          Q.       Okay. To get back to the -- to the  
18 recording, just one question. Mr. Hall mentions that  
19 Antrim. I mean, was the Secretary of State curious  
20 to sort of put together the people that were involved  
21 in Michigan and the people down here at any point at  
22 all?

23                   MR. TYSON: I'll object to scope.

24                   THE WITNESS: I haven't discussed that  
25 specific thing with the Secretary, but the

1 Office was looking at it and Antrim County was,  
2 obviously, something to me that I understood,  
3 because Antrim County was sort of the genesis of  
4 most of the stolen election claims in the early  
5 section of this, because, again, it's a rural  
6 county in Michigan; and I was briefed up.

7 For good or for ill, I became sort of the  
8 debunker on CNN, so I got briefed up on it to  
9 try to get ahead of these kind of questions and  
10 understand it.

11 So I did see that. SullivanStrickler  
12 didn't ring a bell to me. I didn't know that  
13 they were in Atlanta. Just, again, we were  
14 doing things. We have this piece of equipment,  
15 so it wasn't -- It did not click a bell or  
16 click a light.

17 Antrim County, again, for me, when I heard  
18 it in the context of Scott Hall talking about  
19 it, it was him putting himself close to  
20 something that was like we know this is where  
21 the stuff is, and I am smart, and I got this.

22 That was kind of how I heard it when it  
23 was discussed that way. Like we got the same  
24 guys who did it up there. It was almost  
25 braggadocious more than it seemed like this was

1 a serious kind of conversation.

2 Again, it may be my own -- what's the  
3 word -- prejudices based around Mr. Hall and  
4 what he had done, but that was kind of how I  
5 took it.

6 So my curiosity wasn't overly done. It's  
7 like, oh, he's trying to bolster his claim by  
8 saying something actually happened and kind of a  
9 being tangential to that.

10 Q. (By Mr. Brown) I've got just a few  
11 documents here to go over.

12 Now before I go to some of those  
13 documents, in response to what you've learned, given  
14 what we know now about what happened in Coffee  
15 County, has the Secretary issued any reports to the  
16 counties relating to how they need to enhance their  
17 security?

18 A. Well, again, they don't -- I don't think  
19 most counties need to enhance it I basically think  
20 we -- for lack of a better word --

21 Q. You're answering -- You're explaining a  
22 no answer.

23 A. Oh, sorry. No. I'm trying to get to it.  
24 I'm trying to think of what we've done. I know we've  
25 done some -- not -- Not a report.

1                   A, no. There's been no report.

2           Q.     Okay. Please explain.

3           A.     Essentially, 'cause we're still  
4     investigating, so we can't really do a report; but we  
5     said, look. And, again, this is from discussions  
6     through the liaisons, through Blake Evans and those  
7     guys. Follow the law. Use your logs. Make sure  
8     your stuff's secure. Follow the rules we have in  
9     place.

10                   Because if Misty had followed the rules in  
11     place and followed the law, we wouldn't be in the  
12     situation, so there's not like a new thing other than  
13     don't be sloppy, you know, 'cause sloppiness can lead  
14     to some of the things. But this wasn't sloppy. This  
15     was intentional.

16           Q.     I understand. You're describing things  
17     that might have been said to the counties.

18           A.     I believe --

19           Q.     What was told --

20           A.     Sorry.

21           Q.     -- to them?

22           A.     I believe that there was in a -- I know  
23     in May of '21, so post this, I don't know if we've  
24     done a buzzPost. I think -- I have to go back and  
25     check. I believe there was some buzzPost, which is

1 our -- on our fireplace system to discuss this. I  
2 could be wrong, but I believe there was.

3 I remember there was some discussion as do  
4 we need to reinforce this to these guys; but as I  
5 said now, she's become a cautionary tale for these  
6 guys. I know that there was discussions amongst  
7 county --

8 We have like a 15 to 20 kind of working  
9 group that comes to help us when we're making changes  
10 and looking at pilots and doing that kind of stuff;  
11 and they've talked amongst themselves, like we know  
12 we have to do better at this, I mean.

13 So I -- I think there was some specific;  
14 but, also, we had generalized knowledge, knowing the  
15 counties are aware.

16 And have we gone through and said sign  
17 this new thing saying you're really, really going to  
18 follow the law? No. We haven't done something  
19 beyond that, because, again, most these people are  
20 doing their jobs properly.

21 Q. You said that -- that Miss Hampton's a  
22 cautionary tale, but it doesn't sound like you're  
23 telling anybody that tale?

24 MR. TYSON: Object to form.

25 THE WITNESS: Again, I think we've done

1 something on that; but we have conversations  
2 with these guys all the time; and they -- they  
3 understand.

4 If you went and interviewed any of them,  
5 they would say, yes, the equipment is  
6 sacrosanct. We know that we shouldn't do that.

7 But -- But I think all understand that,  
8 and I think telling them we can do another thing  
9 saying follow the law, but they all take oaths  
10 to follow the law. You can't treat them like  
11 children, but we can say always be mindful, be  
12 careful, don't be stupid.

13 But, again, these are adults. We can't  
14 talk down to them. We're managing relationships  
15 at the same time on this.

16 I think we might have done something to  
17 remind them of the law. I believe there might  
18 have been a buzzPost on that. I can't say for  
19 certain. I'd have to check, and we can do that  
20 in the off time.

21 I've got the check with Blake Evans.  
22 He -- He is the person that puts those posts  
23 together, usually in conjunction with Steve and  
24 Ryan.

25 But, again, you know what the rules --

1 rules are, so really, really don't break the  
2 rules.

3 Q. (By Mr. Brown) I understand.

4 A. I mean, it's --

5 Q. So in terms --

6 A. Yeah.

7 Q. -- of policies and procedures and training  
8 and communications, because the county officials  
9 already know the rules, you have done nothing  
10 specifically in response to the Coffee County  
11 incident?

12 A. I said I think we've done one buzzPost, I  
13 believe, on something around that; but I would have  
14 to go back and check. I just don't know for certain.  
15 We can check on that in a break.

16 Q. Have you considered additional testing of  
17 the equipment, for example, logic and accuracy  
18 testing that's in conformity with the law?

19 A. We actually just did that for every piece  
20 of equipment in the state, so that's already done.  
21 It's already --

22 You're -- You're asking us to repeat  
23 processes that we already do, and so that wouldn't  
24 make sense for us to do necessarily.

25 We are trying to give, as I pointed out to

1 Mr. Cross earlier, I'm trying to work on a process to  
2 get a long-term contract, Pro V & V, to come and do  
3 testing on the equipment pre- and post-election in  
4 these situations, and not -- Not every piece of  
5 equipment, but do a randomized set, that kind of --  
6 That's the kind of the process we're working on right  
7 now.

8 And we did that after the 2020 election,  
9 and we were -- We're trying to find a way to  
10 formalize it on that front, and we were discussing  
11 that even before all of this. We -- We figured  
12 we've got to put as many processes in place. That's  
13 why I said we need to increase audits. We're working  
14 with the SEB on that.

15 We -- We know that we need to do some of  
16 the general upgrades, and they're already called for  
17 in the contract, which we're already in discussions  
18 about doing that.

19 And we need to do the same things we did  
20 after 2020 of reviewing the equipment. I think we  
21 can do that a little less often, because it's not  
22 cheap; and there's no reason to believe, unless we  
23 get information like Coffee County, that there's been  
24 a real threat or breach done.

25 So we're -- we're acting as responsibly as

1 we can with the resources we have, with the time we  
2 have, working with people who we can't --

3 I think this there might be a fundamental  
4 misunderstanding. Secretary Raffensperger cannot  
5 tell counties to do things beyond what's in a rule or  
6 a law, so we have to work with now state election  
7 board that we are not on that we used to chair, which  
8 made it a lot easier, and try to set those things up,  
9 so we -- it doesn't -- You cannot snap your fingers  
10 and do those things.

11 Q. All right. There are limits to what the  
12 Secretary of State can to prepare the counties.

13 A. Not prepare the counties. We can't direct  
14 them to do things above and beyond. We have limits  
15 by the law and limits by time and limits by  
16 relationships.

17 You -- You have to work with these  
18 people, so you can't be a bully. You can be a bull  
19 in the china shop. You can't say all you children,  
20 now listen to us. You can't do that. They -- These  
21 are grown adults, who are -- almost all of them  
22 professionals. There's always problem counties.

23 And I think one of the ironic things about  
24 this is Coffee's usually a problem. Usually have  
25 things that come out of Spalding. There's issue with

1 Floyd. There's issues with Hancock. There's issues  
2 with Fulton, and it's regardless of personnel. It's  
3 these same counties. These cultures seem to have  
4 these same problems.

5 So nothing is perfect, and you can do all  
6 the training in world. We trained Misty, and she  
7 chose to ignore part of that training. And you can't  
8 control every person.

9 Q. I'm with you on that. On -- Specifically  
10 on the logic and accuracy testing --

11 A. Uh-huh.

12 Q. -- you do not do logic and accuracy  
13 testing for each permutation on the ballot, do you?

14 MR. TYSON: I'll object to scope on that  
15 one.

16 THE WITNESS: I would have to go back.  
17 They wouldn't do each permutation, 'cause that  
18 would be an impossible amount of time.

19 However, I believe under the training on  
20 it, you have to touch each part of the screen at  
21 some point for that, which it on a single  
22 screen, you make sure you have enough of those;  
23 and they can probably figure out if it has to be  
24 one or two pages. They don't have to do every  
25 permutation on it, but they have to do a touch

1 on each part of the screen to make sure that's  
2 activating it properly.

3 So I don't think it's necessary to do a  
4 permutation, because that, again, would --

5 On a primary ballot where we have a  
6 Republican ballot, a Democrat ballot, and a  
7 nonpartisan ballot, every permutation you're  
8 running runs into -- I don't even want to do  
9 the math. I'm a liberal arts major, but it's a  
10 lot.

11 And it would be very nearly impossible to  
12 do a same rational logic and accuracy testing,  
13 because you would have to have all the  
14 permutations listed and then checked off as they  
15 went. By touching the screen to make sure it  
16 does that and -- and reads it, then you know the  
17 screen is operating as it's supposed to.

18 Q. (By Mr. Brown) You were asked a slightly  
19 different question, but let me make sure I have it.  
20 The -- Your understanding of the licenses with  
21 Dominion is that the State is obligated to protect,  
22 to some extent, to protect Dominion's intellectual  
23 property, correct?

24 A. Essentially, yeah.

25 Q. Has Dominion made any sort of claim, small

1 "c" claim or complaint, small complaint to the State  
2 about the State's exposure for Coffee County's  
3 breach?

4 A. Not that I'm aware of.

5 Q. Okay. Are you aware of any documents  
6 reflecting Misty Hampton's changing of her password  
7 in December of 2020?

8 MR. TYSON: So there's a document over  
9 which we've asserted investigative privilege.

10 MR. BROWN: Okay.

11 MR. TYSON: It was upheld. Not to  
12 short-circuit him, but that -- that there's one  
13 single document --

14 MR. BROWN: Oh, okay.

15 MR. TYSON: -- that listed out so --

16 MR. BROWN: That -- That it relates to  
17 the password?

18 MR. TYSON: Correct.

19 MR. BROWN: Okay.

20 THE WITNESS: And, again, you say Misty  
21 Hampton changing it. We don't know one way or  
22 the other on that. We know -- We know it was  
23 changed on that date, and that's the document he  
24 referred to.

25 Q. (By Mr. Brown) It was done during her

1 tenure as the election director?

2 A. Correct.

3 Q. Fair enough?

4 A. Yes, sir.

5 Q. The -- Yeah. I think you've already  
6 testified to this.

7 But the Secretary of States is supposed to  
8 have the passwords for each EMS in the state,  
9 correct?

10 A. I -- Again, supposed to. We generally  
11 did, because we sent them out with passwords  
12 originally; and I think -- I don't think that it's a  
13 rule, but more of a best practice that, hey, let CES  
14 know you have a different password up here now; and,  
15 you know, they're generally involved with the change  
16 out and that kind of stuff.

17 So, again, I don't know that it's a rule;  
18 but it'd be a best practice; and we would expect most  
19 county election folks, hey, here's the -- In case I  
20 get hit by a bus tomorrow, here's the password kind  
21 of thing.

22 Q. In that -- but the -- but the Secretary --  
23 the -- the -- I guess it was CES, maybe -- I'm not  
24 sure -- knew Misty had changed it at the time it  
25 happened, right?

1 A. No.

2 Q. Okay.

3 A. We had -- I think she was originally told  
4 by Chris Harvey to change it once the video came out.  
5 She didn't do it.

6 And then on December 11th, I believe it  
7 was, they came down and said you changed it. No.  
8 Change the password.

9 On the 14th, the password was changed, so  
10 that's -- that's where it goes in for all these  
11 things. There's no way for CES to be remotely made  
12 aware of that, because it's not connected to the  
13 Internet.

14 Q. Okay. So she was told -- She was  
15 recommended or told to change it.

16 A. Uh-huh.

17 Q. And then at some point after that, it was  
18 changed. Fair to say?

19 A. Yes, sir.

20 Q. Okay. And at the time, the Secretary of  
21 State was not made aware of the change?

22 A. Correct, sir.

23 Q. Okay. And I guess didn't know it was  
24 changed until the next spring.

25 A. May, I believe, is when --

1 Q. When they picked it up.

2 A. -- James Barnes --

3 Well, we became aware that there was an  
4 issue when James Barnes first called, so that was  
5 when we -- Something's gone on here.

6 And we -- Frankly, we couldn't know it  
7 was changed. The assumption is it was, because of  
8 the situation that occurred previously; and so --  
9 But we didn't know for certain it was changed and  
10 what date until Mr. Persinger got into the machine to  
11 look at the log file.

12 Q. I want to make sure we have all the  
13 documents, but you -- and to sort of source of your  
14 knowledge on some of these things.

15 A. Uh-huh.

16 Q. You testified that James Barnes, after the  
17 Cyber Ninja card was found --

18 A. Yes, sir.

19 Q. -- he sends it upstream. He -- There's a  
20 call back from, I guess, Pamela Jones; and the  
21 information that came back was that he had spoken  
22 with the board and the employees down there. Was  
23 that --

24 A. Are you talk -- Like looking back, you  
25 know, it's the basis of it. We talked to people, and

1 no one's aware of that, so that's -- I took it to  
2 mean the people who would necessarily know.

3 Now he -- Was it followed up with? Well,  
4 who did you specifically talk to? I -- I didn't get  
5 to that point. I was reticent. Said okay. He did  
6 his part. Our guys did their part.

7 Q. Okay.

8 A. He was going to go to the IT department to  
9 see if there were any e-mails with any correspondence  
10 with Cyber Ninjas, and we never heard back.

11 So, again, I'm talking to Mr. Barnes. He  
12 goes I never heard back, so I figured that was -- I  
13 mean, Mr. Blanchard. Pardon me. I never heard back  
14 from Mr. Barnes, so that was kind of where we left  
15 it --

16 Q. Okay.

17 A. -- with a little "i" investigation.

18 Q. I'm not challenging that or criticizing  
19 it, but the -- But the source of your information is  
20 simply that e-mail chain that we saw with Barnes's  
21 response -- talked to some of the people and nobody  
22 said anything?

23 A. And talking to Inspector -- Investigator  
24 Blanchard, and I talked to Pam as well, and she was  
25 less clear on it. She remembered being down there

1 and having some of those discussions.

2 But it was mainly that e-mail and talking  
3 to Mr. Blanchard.

4 THE WITNESS: Does anyone validate here  
5 for the parking? Looking at you, host.

6 MR. KNAPP: We can -- We can validate.

7 THE WITNESS: Okay. Making sure.

8 MR. KNAPP: But you've got to slow down.

9 THE WITNESS: Thanks for that.

10 Q. (By Mr. Brown) Has your office --

11 MR. CROSS: That's the tradeoff.

12 THE WITNESS: Understood.

13 Q. (By Mr. Brown) The -- the investigation  
14 sort of --

15 A parallel investigation is what y'all are  
16 doing, what we're doing. Okay. I think we can agree  
17 on that. We all want to try to get to the truth of  
18 this.

19 We -- We see the local people involved  
20 that you've testified to and connection with Sidney  
21 Powell hiring -- directly or indirectly hiring  
22 SullivanStrickler.

23 Has the Secretary's Office, before the GBI  
24 got involved, made any connections in between those  
25 steps of people who might have been involved in

1 planning, paying for, or benefitting from the Coffee  
2 County theft?

3 MR. TYSON: I'll object to form.

4 THE WITNESS: Were those steps being taken  
5 to outline an investigation? Yes.

6 But I think GBI came in beforehand; again,  
7 'cause it goes in -- inside when the e-mails are  
8 produced to us. I can't remember the date of  
9 that, of when we first saw those specific set of  
10 e-mails.

11 Again, in a -- If we still had the  
12 investigation, I would have a different kind of  
13 answer right now. We have -- We have more  
14 briefing on it and understanding of it.

15 Like I said, they were -- They had a  
16 plan, which was to go down there, start the  
17 interviews and everything after we had done  
18 the -- what I call the binary things. The, yes,  
19 this happened. No, it didn't happen, what do  
20 you know about this.

21 So I think the first thing would have been  
22 we've identified everything out of the machine  
23 that we can identify. We've gone to people on  
24 the ground.

25 I think then the next step would have been

1 the other -- 'cause I know -- there was -- there  
2 was this whole discussion, well, how do we do  
3 this? But I don't think it got to that point  
4 before the GBI came in.

5 Q. (By Mr. Brown) Okay. Did you want enough  
6 time in between the -- the -- the Maggio documents,  
7 what I referred to?

8 A. Yes, sir.

9 Q. Okay. And so the connection between  
10 Powell and Hall and all of those people was not  
11 apparent to you with enough time to investigate it  
12 before the GBI got involved --

13 A. Yes, sir.

14 Q. -- you're saying?

15 A. That's fair.

16 Q. Have you talked with Mr. Sinners about  
17 what he knows about -- about this or --

18 A. About Coffee --

19 Q. -- if -- if anything?

20 A. About Coffee County --

21 Q. Yeah.

22 A. -- specifically?

23 I asked him, "Do you know anything?"

24 He was like, "No. I've got nothing."

25 I said, "Are you sure?"

1           He goes, "Yes. It was after I was gone  
2 when all this stuff went down."

3           So now I did ask him specific questions.  
4 That's basically what he told me.

5           And, again, in a -- Looking at the  
6 reality of how a young man who just came off a action  
7 who lost was put through a wringer, going to Savannah  
8 and having -- indulging in adult -- It all tracked  
9 with also me knowing him; and that seemed to all --

10          Q.     Okay.

11          A.     -- track, you know.

12          Q.     And there -- The Secretary as a  
13 investigator had time to investigate any connection  
14 between the fake elector group of people and the  
15 Coffee County incident; is that right?

16               MR. TYSON: I'll object to scope and form.

17               THE WITNESS: Other than knowing that  
18 Cathy Latham was one of the people who were on  
19 that list of electors who claim to be the proper  
20 ones and looking at anything beyond that, no.  
21 There's been -- Again, they were going to go  
22 down and interview everybody August 8th through  
23 11th and that -- By that point, it was already  
24 off of our plate.

25               MR. BROWN: Okay. This is going to be

1 exhibit, I believe, 25. Is that right?

2 A. I think that's right but --

3 THE VIDEOGRAPHER: Yes, sir. That is  
4 right.

5 (Exhibit 25 was marked for  
6 identification.)

7 MR. TYSON: Okay. I can't even see that.  
8 There you go.

9 Q. (By Mr. Brown) And for the record,  
10 Exhibit --

11 A. And --

12 Q. -- 25 is --

13 A. -- this is not --

14 Q. -- not a tab. I don't think it's a tab.

15 MR. KNAPP: Do you need one?

16 THE VIDEOGRAPHER: I was just going --

17 Q. (By Mr. Brown) But it is a November 17th,  
18 2020 Official Election Bulletin, from Chris Harvey,  
19 to county election officials and county registrars.

20 You see that?

21 A. Yes, sir.

22 Q. Do you know if there was some specific  
23 Open Records Act request that triggered this  
24 concern -- apparent concern by Mr. Harvey, or is this  
25 part of the general post-election surge of

1 difficulties? Put it that way.

2 MR. TYSON: And I'll object to scope.

3 There's no indication it involves a breach or an  
4 unauthorized access.

5 THE WITNESS: It was multiple counties.

6 It was -- we're -- We were in the time period  
7 at this point where ORRs were being used to try  
8 to get ahold of anything anybody could.

9 This was post the time -- and I'm doing --  
10 I'm walking my mind through this.

11 The two centers called for Secretary  
12 Raffensperger to resign. The threat levels had  
13 kind of increased for everybody internally, and  
14 our county elections officials were being  
15 swamped with stuff, so we --

16 For all the ones that called us during  
17 this period of time, we were sure there were who  
18 didn't who were receiving the same thing. So we  
19 said the better part of valor. Let's  
20 specifically remind them of the laws on this,  
21 that they don't give any of this stuff over,  
22 because basically it would be in violation of  
23 state law.

24 And now there was not a specific, hey,  
25 this particular one that did it. It was like an

1           avalanche of them from citizens and groups and  
2           every -- everybody else you can think of.

3                   (Exhibit 26 was marked for  
4           identification.)

5           Q.       (By Mr. Brown) Let me hand you what has  
6           been marked as Exhibit 26.

7                   And for the record, 26 is a December 9,  
8           2020 --

9           A.       Do you have one more up for --

10          Q.       I do.

11          A.       -- counsel over here?

12          Q.       I may.

13                   MR. TYSON: Okay.

14                   MR. KNAPP: Trying not spill that.

15                   MR. TYSON: Thank you, sir.

16          Q.       (By Mr. Brown) It looks like it's a press  
17           release from your office; is that right?

18          A.       Yes, sir.

19          Q.       And this indicates that the Secretary of  
20           State is opening an investigation into Coffee  
21           County --

22          A.       Yes, sir.

23          Q.       -- correct?

24                   And this has to do with the Coffee  
25           County's inability to certify the election, unlike

1 all the other counties in the state, right?

2 A. Inability, slash, unwillingness, I would  
3 call it that.

4 Q. And did you make any determination as to  
5 which was which or both?

6 A. My gut reaction from talking to the  
7 investigators and seeing how everything went down, a  
8 little bit of both, I think; and Miss Hampton, by her  
9 mishandling, couldn't make it work. She was  
10 predisposed to already dislike the system, because it  
11 wasn't the system that she knew real well, the ES&S  
12 system.

13 She had had a longstanding dislike of Mr.  
14 Harvey. So him directing her to do things didn't go  
15 over well.

16 The investigation -- the investigators  
17 themselves said she was standoffish, combative in the  
18 investigation.

19 Claimed she wasn't trained. I showed  
20 everybody. They had the documents.

21 All that together, they couldn't get to  
22 it. I think they were unable to, because they were  
23 unwilling to do the things properly to get there.

24 And I think that's when the investigators,  
25 they did that hand tally to show that it did match

1 the election night reporting that was originally  
2 loaded, so that the recount stuff was just thrown  
3 off, because she had mishandled the batches, the  
4 balloting.

5 As I said, Coffee County did have a soap  
6 opera.

7 Q. Right. Let me hand you what has been  
8 marked as 26.

9 (Exhibit 27 was marked for  
10 identification.)

11 THE WITNESS: Is this 27 now?

12 MR. CROSS: 27.

13 THE VIDEOGRAPHER: 27.

14 MR. BROWN: 27.

15 MR. KNAPP: Yes.

16 Q. (By Mr. Brown) Like I said.

17 A. Okay.

18 MR. KNAPP: Thank you.

19 MR. TYSON: There we go.

20 Q. (By Mr. Brown) 27, for the record, is a  
21 January 4, 2021 e-mail, from Garland Favorito, to a  
22 cast, including Tom Harding, Preston Haliburton,  
23 Robert Cheeley, Mr. Bundren, Paul Maggio, Greg  
24 Freemeyer and --

25 A. Sorry.

1 Q. -- either Jo Van Hutton Pulitzer or --

2 A. It says Jovan --

3 MR. TYSON: Jovan. Yeah.

4 THE WITNESS: -- Hutton Pulitzer.

5 Q. (By Mr. Brown) Jovanhuttonpulitzer --

6 A. Yes.

7 Q. -- one word.

8 MR. CROSS: It sounds like a Marvel  
9 villain.

10 THE WITNESS: To be fair, he did change  
11 his name to that.

12 This is one of the gentlemen who testified  
13 at the -- at the Senate hearing and claimed to  
14 have hacked into voting machines in a live  
15 voting environment. He's also a treasure hunter  
16 and had been on the treasures of Oak Island on  
17 History Channel.

18 Obviously Garland Favorito is well-known  
19 on that. Bob Cheeley, same.

20 So yeah. I recognize many of names on  
21 this, sir.

22 Q. (By Mr. Brown) The -- Had you seen this  
23 document before I gave it to you?

24 A. I've not seen this particular e-mail. No,  
25 sir. I have no recollection of it.

1           Q.     Are you familiar with any connection  
2     between Garland Favorito and the Coffee County  
3     incident?

4           A.     No. I am not.

5                     In fact, let me read this real quick so --

6                     Well, it says, "Fulton has requested a  
7     delay, and we don't know whether or not the judge  
8     will grant it."

9                     I don't know if this was attached to the  
10    Henry County Judge Brian -- oh, god, what's his name?  
11    It was a -- an election challenge --

12          Q.     Amero.

13          A.     -- that had moved from Fulton to Henry  
14    County.

15                     Brian Amero was the judge on that, so this  
16    might be attached to that.

17          Q.     Let me see the one you have.

18          A.     Okay.

19          Q.     I had two very similar documents.

20                     Yeah. That's correct.

21          A.     Okay. Since it was Fulton County, there  
22    was an election challenge that Garland had filed; and  
23    it was in front of a judge, Judge Brian Amero in  
24    Henry County; and him -- His reference here is -- I  
25    don't know if we allow it or not. I believe this is

1 they were trying to get access to the physical  
2 ballots, and he would not allow them. He ended up  
3 saying, no, you can't do that.

4 MR. BROWN: This is going to be marked as  
5 Exhibit 28.

6 (Exhibit 28 was marked for  
7 identification.)

8 Q. (By Mr. Brown) Have you seen this  
9 document or something like it?

10 This is a letter from Pamela Karlan with  
11 the Department of Justice.

12 A. No, sir.

13 Q. You --

14 A. I have not.

15 Q. You have not?

16 A. No, sir.

17 Q. Okay.

18 A. But, again, recognizing some of the people  
19 who have cc'ed on this, so I -- I --

20 Q. Well, I mean it's the -- I'll -- I'll tie  
21 this together with some of the documents that are  
22 coming.

23 A day later, Dominion has their  
24 notification; and it might have been connected to  
25 the -- to this warning here. I don't know. But

1       you're not aware of --

2                       Well, let me just show you Dominion's.

3           A.       I -- I'm aware of Dominion's May 6th  
4       e-mail to them.

5           Q.       Right.

6           A.       Yes. Or the document that was actually  
7       the --

8           Q.       Okay.

9           A.       -- notice.

10                   And that sort of prompted James Barnes to  
11       then contact Chris Harvey.

12           Q.       That's -- that's what I'm -- just -- I'm  
13       just getting the document in --

14           A.       Yeah.

15           Q.       -- make sure, so we have it all in one  
16       place.

17           A.       I don't know if it -- this May 5th from  
18       Civil Rights Division, to Karen Fann had anything to  
19       do with that, or if Dominion even knew it existed,  
20       'cause they're not cc'ed on this.

21           Q.       Okay.

22           A.       I think it may be a coincidence of timing.

23           Q.       Okay. Yeah. That's what -- It could  
24       very well be.

25                   Okay. Let me show you what is No. 29.

1                   (Exhibit 29 was marked for  
2                   identification.)

3           Q.       (By Mr. Brown) No. 29 is, in fact, the  
4           document that we've been referring to; and that's the  
5           May 6, 2021 customer notification from Dominion  
6           Voting.

7                   And you have seen that document before?

8           A.       Yes, sir.

9           Q.       And did -- did that document -- Is that  
10          the notification that would have gone to Coffee  
11          County and alerted Mr. Barnes of Coffee County that  
12          he was referring to when he found the --

13          A.       Yes.

14          Q.       -- the card?

15                   THE COURT REPORTER: Okay. That he found  
16          the what?

17                   THE WITNESS: Card.

18                   MR. BROWN: Business card. I didn't  
19          finish my sentence. Sorry.

20          Q.       (By Mr. Brown) The -- Dominion is  
21          appropriately expressing concern over the security of  
22          their equipment. What has Dominion's response to the  
23          breach of that security been either formally or  
24          informally with the Secretary since it became  
25          apparent that their equipment was violated?

1           A.       Obviously, they knew not long after the  
2 audio clip was admitted. Said this is the claim, and  
3 then -- 'cause we were trying to get in with them.

4                   They -- they were -- They put their  
5 engineers on it. They were trying to do stuff in a  
6 responsible manner to try to get into that server to  
7 see if such a thing had occurred, 'cause that was,  
8 obviously, the heart of the whole system, so if you  
9 get to that, you can kind of see what happened.

10                   That was at least our intent internally on  
11 that, so they worked with us. I mean, their vice  
12 president of operations was there trying to figure  
13 out. Went to Best Buy to get whatever she got to try  
14 to get into it, working with her engineers in Denver.

15                   So they were, you know, aware. I don't  
16 think it was -- It wasn't a five-alarm fire, but it  
17 wasn't like we can't do it and who cares. It was  
18 somewhere in between, and I guess it depends on your  
19 point of view how urgent or unurgent it was.

20                   It was still there. They were doing their  
21 due diligence along with us trying to get to that  
22 machine.

23                   Now since the unauthorized access was,  
24 obviously, confirmed on our side, we let them know  
25 relatively quickly. I couldn't say the same day

1 or -- It was probably within the same day or the  
2 next day or something like that.

3 Again, they -- they felt like all right.  
4 So this has happened. And what do we need to do to  
5 assure people the -- that the system's okay.

6 So we were talking about, you know, do we  
7 send Pro V & V to go examine each one of these  
8 machines. That's what we -- We were talking about  
9 some of that. Do we need to track down everything.

10 The main thing is our discussions were  
11 this is a bad actor, and the bad actor's gone, so  
12 that's the main. That was the step one, so there,  
13 the -- Anything going forward at that point had  
14 stopped with those pieces of machinery themselves  
15 specifically.

16 We didn't necessarily -- Again, we had  
17 the -- what did you call them, the Bollinger -- the  
18 documents with the e-mails you had a word for them.  
19 The e-mails from SullivanStrickler.

20 Q. The Maggio documents?

21 A. Maggio. I was thinking of Bollinger.

22 Q. No, it's Paul Maggio.

23 A. You know why? The problem was that that  
24 Bollinger was the -- of course, the ref, who did the  
25 terrible roughing-the-passer call this weekend.

1 That's the -- still in my mind on that front.

2 So Maggio document came in; and, again,  
3 I'm not sure of the timing of GBI taking over, us  
4 seeing that, them being aware of it kind of thing.

5 And I believe they were -- At the end of  
6 the day, finally said, take -- agree with you,  
7 Secretary. Let's take everything off the table.  
8 Let's take the discussion point and change the  
9 equipment out. There --

10 And I remember I did have some discussions  
11 with them; and I was pushing back more saying we  
12 shouldn't change the equipment out, because we're  
13 giving into the overall argument that everything's a  
14 risk on doing that.

15 And they said, well, we know it's not; but  
16 let's take the argument off the table; and, again, I  
17 was the last one in our office to finally come around  
18 to that point of view.

19 Q. Do you know if Dominion -- Has Dominion  
20 told you of anything that they're doing with their  
21 equipment or their software or anything that would be  
22 responsive to the fact that their software is in the  
23 wild?

24 A. Again, I don't know their software's fully  
25 in the wild or not. We had a track on where it is.

1 But we already had the same software in  
2 Antrim we believe is in the wild. I believe there  
3 was another imaging in Colorado and/or Arizona, and  
4 it's always going to be out there.

5 Our next steps are we're moving -- we're  
6 moving to 5.17. That's going to be happening, but we  
7 have to operate the election we have now; and they're  
8 consistently always updating their software as they  
9 go, as I mentioned before.

10 So even without this unauthorized access,  
11 we were already looking at moving to the next thing.  
12 So we were in our normal course of business doing  
13 these things.

14 And we were -- we were changing out --  
15 We're moving to the next generation of Poll Pad  
16 irregardless of -- regardless of this so.

17 And the processes and procedures we have  
18 in place, again, if they're followed like they're  
19 supposed to be, help to do the mitigations on this  
20 front. When you have a bad actor, regardless of  
21 system, this is the kind of situation you can see.

22 THE WITNESS: While y'all discuss that,  
23 I'm going to run to restroom real quick.

24 MR. BROWN: Okay.

25 THE WITNESS: Okay.

1 MR. BROWN: Sure. And we have -- We've  
2 got -- we're -- after the --

3 Please go to the bathroom. It's only  
4 about five more.

5 THE WITNESS: Thank you.

6 MR. BROWN: Okay. Thank you.

7 THE VIDEOGRAPHER: We're going off the  
8 record at 5:43.

9 (Recess from 5:43 p.m. to 5:49 p.m.)

10 (Exhibits 30 and 31 were marked for  
11 identification.)

12 THE VIDEOGRAPHER: We're on the record at  
13 5:49.

14 We're going to go ahead and put Exhibit  
15 1 -- 30 and 31 -- Exhibit 30 and 31 on the  
16 record at 5:49.

17 Q. (By Mr. Brown) Mr. Sterling, let me hand  
18 to you what has been marked as Exhibit 30.

19 And this is something that your office  
20 prepared, correct?

21 A. It was a press release from my office --  
22 MITRE Corporation, Independent Federal Lab, finds  
23 Georgia Election System Secure.

24 Q. And so -- and you're -- You are quoted in  
25 this press release, correct?

1           A.     Yes, sir.

2           Q.     And you say here, "We are pleased that  
3     MITRE recognized that existing procedural safeguards  
4     make it extremely unlikely for any bad actor to  
5     actually exploit any vulnerabilities."

6                     Would you still say that today?

7           A.     Yes. In the context of what I discussed  
8     with Mr. Cross earlier, that most of the items that  
9     were discussed in Mr. Halderman's report showed  
10    vulnerabilities still require physical access to  
11    machines outside of the single county to have  
12    widespread impact.

13                    So yes. It is a situation that this  
14    provides an easier roadmap, given that they now have  
15    somebody somewhere that may or likely does have the  
16    software and -- and the root code.

17                    But this still holds that I think you can  
18    read this two different ways, and I understand people  
19    can argue about this, and maybe we should have a  
20    supplemental report from MITRE on this.

21                    Having the access can increase the threat  
22    of a particular type; but for the majority of the  
23    things that were listed by Mr. Halderman --  
24    Dr. Halderman, pardon me, you have to have physical  
25    access to the machines on site in a county to do

1       these -- to effectuate these things.

2                       So that's -- that's -- That's what I mean  
3       by I would still stand by the statement in the MITRE  
4       report on that front.

5               Q.       And MITRE was engaged by Dominion, right?

6               A.       Yes, sir.

7               Q.       Okay. So you didn't disclose that it was  
8       Dominion's expert who concluded that Dominion's  
9       system was secure, did you?

10              A.       No. I -- No. We didn't on that one. I  
11       mean, but it's the Secretary's working with --

12                      I see what you're saying. I guess from my  
13       point of view, I didn't think about it that way.

14                      But I mean, in the same way,  
15       Dr. Halderman's report has been paid for by your  
16       clients on these fronts, so I mean --

17              Q.       Which we disclosed.

18              A.       Again --

19              Q.       The --

20              A.       -- I don't think it's necessarily been  
21       hidden, but I see what you're saying.

22              Q.       That's right.

23              A.       It wasn't in this particular press  
24       release.

25              Q.       Fair enough. The -- you --

1           The report goes on to say, "It is MITRE's  
2   expert opinion that it is operationally infeasible  
3   that the Georgia election system 'could be  
4   effectuated by malicious actors with very limited  
5   time and access to the machines.'"

6           That's sort of a moot observation. You  
7   would agree, right?

8           A.    No. I would not.

9           MR. TYSON: Object.

10          THE WITNESS: Going back to my -- Sorry.

11          MR. TYSON: Object.

12          Q.    (By Mr. Brown) Go ahead.

13          A.    No. I would not.

14          Going back to my previous statement, most  
15   of these things have to do with having physical  
16   access to the machines, most of the vulnerabilities  
17   to exploit. Is there a higher likelihood now of an  
18   issue based on some of that? Yes.

19          But they still have to have access  
20   somewhere else to do these things. I keep on --

21          Q.    Okay.

22          A.    -- going back to that.

23          So yes. I -- I believe that we are still  
24   secure even in this environment.

25          Q.    Do you know if MITRE is going to do a

1 supplemental report based upon, I mean, anything?

2 A. No. I do not know that.

3 Q. Okay. Has the State engaged MITRE  
4 separately for other work, I think, on ballot  
5 harvesting?

6 A. We didn't -- I don't know if we engaged  
7 with them, or they offered it to us. They were doing  
8 this because they took our data, and we did that. I  
9 don't think we paid MITRE for this -- that work.

10 We did also work with them on a  
11 disinformation/misinformation reporting tool called  
12 Squint that was essentially letting trusted people  
13 like elections directors and state actors make  
14 reports of misinformation and disinformation on  
15 social media that then they would validate and get  
16 into Facebook, Twitter, Tumblr, all those things with  
17 the validation on them, so they can more quickly,  
18 easily go after and identify who was actually  
19 misinformation/disinformation.

20 And I don't know if we paid MITRE for  
21 that, or it was a free service offer, because they  
22 were a federal lab. I just -- I don't recall. I  
23 don't believe we had them as a vendor. I think they  
24 gave us -- We gave them information. They did  
25 research and gave it back to us.

1 Q. Do you know how -- if -- If Mr. Cross  
2 asked this, I apologize.

3 But do you know how MITRE got a copy of  
4 the Halderman report, which was under seal?

5 MR. TYSON: I object. I'll object to  
6 scope.

7 Go on.

8 Q. (By Mr. Brown) Let me hand you what's  
9 been marked as Exhibit 31.

10 MR. TYSON: It's this one? Okay.

11 THE WITNESS: Yeah. I'm looking at it.

12 MR. TYSON: Okay.

13 THE WITNESS: Yeah.

14 Q. (By Mr. Brown) Do -- Do you know what  
15 the context of this report was, the independent  
16 technical review security analysis?

17 A. This is the same review. This is an  
18 executive summary of that review.

19 Q. So 31 is what 30 is based on?

20 A. In part, yeah.

21 I mean, yes. It is.

22 Q. Okay. Let me just pick on one thing  
23 here --

24 A. Sure.

25 Q. -- on Exhibit 31. If you look at the

1 next-to-the-last paragraph, it says -- The last  
2 sentence of the next-to-last paragraph says --

3 A. Okay. Will you give me a second. Next --  
4 Next-to-last sentence of the next-to-last paragraph;  
5 is that correct?

6 Q. The last sentence of the next-to-the-last  
7 paragraph.

8 A. It starts with "Five"?

9 Q. That's correct.

10 A. Okay.

11 Q. That's just incorrect. I mean, it  
12 describes the QR code as a nonauthoritative portion  
13 of the Georgia ballot. That's just factually  
14 incorrect, right?

15 MR. TYSON: I'll object to scope.

16 THE WITNESS: I disagree with that.

17 The -- The paper ballot is the -- is the final  
18 vote, but the human readable part of that is the  
19 final part of that.

20 Q. (By Mr. Brown) Okay. But the machine  
21 treats the QR code as the authoritative vote,  
22 correct?

23 A. I think we're probably dancing on the head  
24 of a pin here, because --

25 Q. No.

1           A.       -- this is detected at their risk limiting  
2       audit, so I think you can have an argument with them  
3       about that, but I believe that what they're basically  
4       saying is it's not authoritative in the final part of  
5       the law. The risk limiting audit looks into the  
6       human readable portion of that, so that's what I  
7       believe they're referring to.

8           Q.       All right. Is -- is -- Maybe it  
9       shouldn't be the authoritative one, but the Dominion  
10      system treats it as the authoritative part of the  
11      ballot, correct --

12                   MR. TYSON: I'll object to scope.

13           Q.       (By Mr. Brown) -- because it ignores the  
14      human readable part of the thing? We've already  
15      established that.

16           A.       Again, I'm going to argue with you about  
17      this until the cows come home that the law states  
18      that the human readable part is that; and we are  
19      allowed use of the human readable part.

20           Q.       Okay. So modifications to the QR code  
21      then don't concern you, I guess, because they're  
22      nonauthoritative part of the ballot, right?

23                   MR. TYSON: I'll object to form and to the  
24      scope.

25                   THE WITNESS: Going back, it would be

1 detected except for through one particular thing  
2 of miss -- Dr. Halderman's thing of his report.  
3 That would be detected through an RLA; and as  
4 I've already stated, the Office would like to  
5 see more RLAs done to avoid those kind of  
6 situations.

7 Q. (By Mr. Brown) But now the -- It says  
8 five of the prosed -- proposed attacks involve  
9 modifications to a printed ballot's QR code.

10 And what you're saying is since that's  
11 nonauthoritative, then those attacks aren't as  
12 germane, right?

13 A. I'm not saying that.

14 MR. TYSON: I'll object to form and to the  
15 scope.

16 THE WITNESS: I'm not saying that.  
17 MITRE's saying that, and I'm saying under the  
18 law, and the RLA's looking at those particular  
19 parts of that, so that's what I mean by that,  
20 and they're being the human readable portion of  
21 that. And we will -- This is a question of  
22 interpretation, and we're simply not going to  
23 agree.

24 Q. (By Mr. Brown) I mean, you know, the  
25 attacks are to the QR code; and what you're saying is

1 the QR code attack aren't important. Is that you're  
2 saying?

3 A. No.

4 MR. TYSON: And I'll object to scope.  
5 We're far beyond breaches.

6 THE WITNESS: No. I'm going to keep on.  
7 We're -- Like I said, we're going to go back  
8 and forth, because I'm not saying it's not  
9 important. I'm saying it's not the legal, final  
10 ballot portion, which is the authoritative  
11 portion at the end of this.

12 If there's a hand tally done, if there's  
13 any of those things, that's what you always go  
14 back to is that ballot and the handwritten  
15 portion of it. That is the final authoritative  
16 thing under the law in the State of Georgia.

17 Q. (By Mr. Brown) I understand that that is  
18 the way that the law reads --

19 A. Uh-huh.

20 Q. -- and that by treating the QR code as a  
21 person's actual vote, the BMD system does not follow  
22 the law, but that is what it reads right?

23 MR. TYSON: And I'll object to form and to  
24 scope. Not involving a breach.

25 THE WITNESS: Now when you go back to

1           this, when it's reading a hand-marker ballot, it  
2           is not reading the person's vote necessarily.  
3           It's reading a coordinate.

4           Q.       (By Mr. Brown) I asked you --

5           A.       So, again -- Sir, you said that it's a  
6           not -- a nonpaper --

7                     The coordinates are not -- That's just  
8           being read by the computer. That is not the  
9           authoritative vote. It is the cast ballot read --  
10          the hand readable portion. That's the authoritative  
11          final part of the RLA process, and that is what the  
12          law says.

13                    So we will dance around the head of a pin.  
14          We can get into arguments about this. I'm just  
15          telling you I'm not coming off of that point, 'cause  
16          that's not my belief or understanding; and I'm not  
17          saying this -- this is MITRE saying this.

18          Q.       Okay. What -- What are the certified  
19          election results based on for every election contest  
20          in Georgia that is not subject to the -- period,  
21          so --

22                    MR. TYSON: And I'll object to scope.

23                    We're beyond access. Object to form.

24          Q.       (By Mr. Brown) What is the -- what's  
25          the -- What are certified election results based on?

1           A.       It's based upon the computer counts of a  
2       combination of hand-marked paper ballots, reading the  
3       coordinates, and BMD marked ballots reading the  
4       coordinates based on a QR code that matches the human  
5       readable portion, so they both do the same thing.

6           Q.       Okay. That's -- That's what I needed.

7           A.       Uh-huh.

8           MR. BROWN: You got anything else?

9           MR. CROSS: Just get this one document in  
10       the record that Brian gave us.

11          MR. TYSON: Mark it as 32.

12          (Exhibit 32 was marked for  
13       identification.)

14          MR. TYSON: And just for purposes of the  
15       record what we'll mark as 32 is the e-mail from  
16       the Secretary's Office, to the Spalding  
17       Elections Director related to -- That's  
18       reference in the "Rolling Stone" article that  
19       was Exhibit 24.

20          THE VIDEOGRAPHER: So are we putting in  
21       Exhibit 32 now --

22          MR. TYSON: Yes, sir.

23          THE VIDEOGRAPHER: -- in reference to  
24       that?

25          Thank you.

1 MR. CROSS: And I -- I don't think we  
2 have any questions on it.

3 THE WITNESS: Okay.

4 MR. CROSS: We're just marking --

5 THE WITNESS: Just putting it in.

6 MR. CROSS: -- it for the record.

7 MR. TYSON: Yeah.

8 THE WITNESS: It's been seven minutes  
9 since you said five.

10 MR. TYSON: Well, it's --

11 MR. BROWN: You got any?

12 MR. TYSON: No. Nothing for me.

13 THE WITNESS: Thank you, gentlemen.

14 MR. BROWN: Thank you.

15 THE WITNESS: And let's go Braves.

16 MR. BROWN: Go Braves. Good luck and --  
17 with the election.

18 MR. KNAPP: I hope the Braves listen to  
19 you. Are not sorry their game is till 7:30.  
20 Would have ended your deposition earlier.

21 THE WITNESS: Boom.

22 MR. SPARKS: Let's go off the record.  
23 Let's go off the record.

24 MR. BROWN: Thank you.

25 THE VIDEOGRAPHER: We're going off the

1 record at 6:01.

2 THE COURT REPORTER: Is he reading and  
3 signing?

4 MR. TYSON: He is.

5 THE COURT REPORTER: Through you?

6 MR. TYSON: Yes, ma'am.

7 THE COURT REPORTER: You're ordering?

8 MR. TYSON: Yes, ma'am.

9 THE COURT REPORTER: Thank you.

10 And you're ordering?

11 MR. TYSON: Yes.

12 THE COURT REPORTER: Thank you.

13 MR. TYSON: Yes. Thanks to you.

14 THE COURT REPORTER: You're welcome.  
15 You guys are ordering?

16 MR. CROSS: Yes. I wouldn't bother with  
17 the rough. Just get us an expedited as soon as  
18 possible.

19 (Whereupon, the deposition was concluded  
20 at 6:03 p.m.)

21

22

23

24

25

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 434 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 17th day of October, 2022.

S. JULIE FRIEDMAN, CCR-B-1476

## VERITEXT LEGAL SOLUTIONS

## FIRM CERTIFICATE AND DISCLOSURE

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1 TO: Bryan Tyson, Esq.

2 Signature of Deponent Robert Gabriel Sterling

3 October 17, 2022

4  
5 Greetings:

6 The deponent has reserved the right to read and sign.  
7 Please have the deponent review the attached PDF  
8 transcript, noting any changes or corrections on the  
9 attached PDF Errata. The deponent may fill out the  
10 Errata electronically or print and fill out manually.

11  
12 Once the Errata is signed by the deponent and  
13 notarized, please email it to the offices of Veritext  
14 cs-midatlantic@veritext.com within 30 days.

15  
16 When the signed Errata is returned to us, we will  
17 forward it to the taking attorney to file with the  
18 original transcript.

19  
20 If the signed Errata is not returned within the time  
21 above, the original transcript may be filed with the  
22 Court without the signature of the deponent.  
23  
24  
25

1 ERRATA

2 I, the undersigned, do hereby certify that I have read  
the transcript of my testimony, and that

3  
4 \_\_\_\_ There are no changes noted.

5 \_\_\_\_ The following changes are noted:

6  
Pursuant to Rule 30(7)(e) of the Federal Rules of Civil  
7 Procedure and/or OCGA 9-11-30(e), any changes in form or  
substance which you desire to make to your testimony shall  
8 be entered upon the deposition with a statement of the  
reasons given for making them. To assist you in making any  
9 such corrections, please use the form below. If additional  
pages are necessary, please furnish same and attach.

10  
11 Page \_\_\_\_ Line \_\_\_\_ Change\_\_\_\_\_

12 \_\_\_\_\_  
13 Reason for change\_\_\_\_\_

14 Page \_\_\_\_ Line \_\_\_\_ Change\_\_\_\_\_

15 \_\_\_\_\_  
16 Reason for change\_\_\_\_\_

17 Page \_\_\_\_ Line \_\_\_\_ Change\_\_\_\_\_

18 \_\_\_\_\_  
19 Reason for change\_\_\_\_\_

20 Page \_\_\_\_ Line \_\_\_\_ Change\_\_\_\_\_

21 \_\_\_\_\_  
22 Reason for change\_\_\_\_\_

23 Page \_\_\_\_ Line \_\_\_\_ Change\_\_\_\_\_

24 \_\_\_\_\_  
25 Reason for change\_\_\_\_\_

1 Page \_\_\_\_\_ Line \_\_\_\_\_ Change\_\_\_\_\_

2 \_\_\_\_\_

3 Reason for change\_\_\_\_\_

4 Page \_\_\_\_\_ Line \_\_\_\_\_ Change\_\_\_\_\_

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6 Reason for change\_\_\_\_\_

7 Page \_\_\_\_\_ Line \_\_\_\_\_ Change\_\_\_\_\_

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9 Reason for change\_\_\_\_\_

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15 Reason for change\_\_\_\_\_

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18 Reason for change\_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_

DEPONENT'S SIGNATURE

21 \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_ day of

22 \_\_\_\_\_, \_\_\_\_\_.

23 \_\_\_\_\_

24 \_\_\_\_\_

25 NOTARY PUBLIC

My Commission Expires:\_\_\_\_\_

**Protective Order Designations for the 30(b)(6) Deposition of Robert Gabriel Sterling as Representative of the Office of the Secretary of State for Georgia Pursuant to Paragraph 6 of the Protective Order [Doc. 477]**

| <b>Page/Line</b>      | <b>Designation</b> |
|-----------------------|--------------------|
| 77:23-80:11           | Confidential       |
| 84:13-16              | Confidential       |
| 118:25 - 119:13       | Confidential       |
| 128:19-25<br>129:1-11 | Confidential       |
| 153:6-13              | Confidential       |
| 208:16-25<br>209:1    | Confidential       |
| 215:10-25             | Confidential       |
| 261:10-265:25         | Confidential       |
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| 280:21-281:7          | Confidential       |
| 283:16-284:18         | Confidential       |
| 285:7-12              | Confidential       |
| 329:2-14              | Confidential       |
| 384:1-21              | Confidential       |